for other purposes; to the Committee on Ways and Means.

By Mr. HAGEN:

H. R. 6421. A bill to provide an appropriation for the reconstruction and repair of roads and other public facilities in the States of Minnesota and North Dakota which were destroyed or damaged by recent floods; to the Committee on Appropriations.

By Mr. KEFAUVER:

H. R. 6422. A bill to permit retired officers of the armed forces to act as agents or attorneys for prosecuting claims against the United States; to the Committee on the Judiciary.

By Mr. MASON:

H. R. 6423. A bill to amend section 2 of the act of February 18, 1922, so as to transfer from the Secretary of Agriculture to the Attorney General jurisdiction for determination of undue enhancement of prices by cooperative associations monopolizing or restraining trade and proceedings in connection therewith; to the Committee on the Judiciary.

By Mr. MICHENER (by request):

H. R. 6424. A bill to amend section 334 (c) of the Nationality Act of 1940, approved October 14, 1940 (54 Stat. 1150–1157; 8 U. S. C. 734); to the Committee on the Judiciary.

By Mr. MUHLENBERG:

H. R. 6425. A bill to amend section 103 of the Judicial Code to provide for terms of the United States District Court for the Eastern District of Pennsylvania to be held at Reading, Pa.; to the Committee on the Judiciary.

By Mr. ROBERTSON:

H. R. 6426. A bill to provide an appropriation for the reconstruction and repair of roads and other public facilities in the States of North Dakota and Minnesota which were destroyed or damaged by recent floods; to the Committee on Appropriations.

By Mr. FOLGER:

H. J. Res. 392. Joint resolution proposing an amendment to the Constitution of the United States to provide a government for the United States in event of a major disaster; to the Committee on the Judiciary.

By Mr. LODGE:

H. Con. Res. 193. Concurrent resolution assuming national responsibility for the results of the Yalta Conference as they affect members of the Polish armed forces serving outside Poland; to the Committee on the Judiciary.

By Mr. BENDER:

H. Res. 573. Resolution to authorize the Committee on Armed Services to investigate the failure of the Secretary of the Army to correct the military record of Edward Zepp; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LODGE:

H. R. 6427. A bill for the relief of Darinka Macuka; to the Committee on the Judiciary.

By Mr. LUCAS:

H. R. 6428. A bill to reimburse the Luther Bros. Construction Co.; to the Committee on the Judiciary.

By Mr. MICHENER (by request):

H. R. 6429. A bill for the relief of Dorrance Ulvin, former certifying officer, and for the relief of Guy F. Allen, former Chief Disbursing Officer; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1862. By the SPEAKER: Petition of Western Governors' Conference, petitioning consideration of their resolution with reference to endorsement of legislation so that statehood may be granted to Alaska and Hawaii; to the Committee on Public Lands.

1863. Also, petition of Lottie Hornik and others, of New York City, petitioning consideration of their resolution with reference to urging the defeat of the legislation entitled "Subversive Activities Control Act"; to the Committee on Un-American Activities.

SENATE

TUESDAY, MAY 4, 1948

The Chaplain, Rev. Peter Marshall, D. D., offered the following prayer:

Father of pity and God of love, hear us, Thy servants, as we pray.

So often we are misunderstood by our colleagues, our friends, and even by those who love us most.

We fail to understand each other, and so suspicions are born, motives are questioned, and attitudes are misinterpreted.

Since Thou dost understand each one of us, help us to understand each other.

Enable us to put off all sham and pretense, so that from henceforth we may live a life of freedom and sincerity.

Make us willing to be ourselves, but eager for Thy help to become the best selves we can be. Amen.

THE JOURNAL

On request of Mr. WHERRY, and by unanimous consent, the reading of the Journal of the proceedings of Monday, May 3, 1948, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 3, 1948, the President had approved and signed the following acts:

S. 608. An act authorizing and directing the Secretary of the Interior to issue a patent in fee to Growing Four Times;

S. 714. An act authorizing the Secretary of the Interior to issue a patent in fee to Claude E. Milliken; and

S. 2409. An act to amend an act entitled "An act to provide revenue for the District of Columbia, and for other purposes," approved July 16, 1947.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had passed without amendment the following bills and joint resolution of the Senate:

S. 1004. An act to amend the Atomic Energy Act of 1946 so as to grant specific authority to the Senate members of the Joint Committee on Atomic Energy to require investigations by the Federal Bureau of Investigation of the character, associations, and loyalty of persons nominated for appointment, by and with the advice and consent of the Senate, to offices established by such act;

S. 1132. An act to amend section 40 of the Shipping Act, 1916 (39 Stat. 728), as amended;

S. 1298. An act to validate payments heretofore made by disbursing officers of the United States Government covering cost of shipment of household effects of civilian employees, and for other purposes;

S. 1545. An act to authorize a bridge, roads and approaches, supports and bents, or other structures, across, over, or upon lands of the United States within the limits of the Colonial National Historical Park at or near Yorktown, Va.;

S. 1611. An act to extend the time for completing the construction of a bridge across the Mississippi River at or near Sauk Rapids, Minn.;

S. 1985. An act to amend the act entitled "Boulder Canyon Project Adjustment Act," approved July 19, 1940; and

S. J. Res. 198. Joint resolution to authorize the Postmaster General to withhold the awarding of star-route contracts for a period of 60 days.

The message also announced that the House had passed the following bills of the Senate, each with an amendment in which it requested the concurrence of the Senate:

S. 1620. An act to establish eligibility for burial in national cemeteries, and for other purposes; and

S. 1648. An act to authorize the expenditure of income from Federal Prison Industries, Inc., for training of Federal prisoners.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 2239) to amend section 13 (a) of the Surplus Property Act of 1944, as amended; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HOFFMAN, Mr. HARVEY, and Mr. HOLIFIELD were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 1608. An act to amend an act entitled "An act to authorize the Postmaster General to contract for certain powerboat service in Alaska, and for other purposes," approved August 10, 1939 (53 Stat. 1338);

H. R. 1896. An act to amend the act of May 29, 1944, so as to provide annuities for certain remarried widows;

H. R. 3731. An act authorizing modifications in the repayment contracts with the Lower Yellowstone irrigation district No. 1 and the Lower Yellowstone irrigation district No. 2;

H. R. 4393. An act to provide for the distribution, promotion, separation, and retirement of commissioned officers of the Coast and Geodetic Survey, and for other purposes;

H. R. 4682. An act to amend the Federal Tort Claims Act to increase the time within which claims under such act may be presented to Federal agencies or prosecuted in the United States district courts;

H. R. 5144. An act providing for the conveyance of the Bear Lake Fish Cultural Station to the Fish and Game Commission of the State of Utah;

H. R. 5272. An act relating to the compensation of certain railway postal clerks;

H. R. 5298. An act to establish Civil Air Patrol as a civilian auxiliary of the United States Air Force and to authorize the Secretary of the Air Force to extend aid to Civil Air Patrol in the fulfillment of its objectives, and for other purposes;

H. R. 5543. An act granting the consent of Congress to Carolina Power & Light Co. to construct, maintain, and operate a dam in the Lumber River;

H. R. 5587. An act to add certain lands to the Theodore Roosevelt National Memorial

Park, in the State of North Dakota, and for other purposes;

H. R. 5680. An act to provide for limiting participation as beneficiary under the National Service Life Insurance Act of 1940, as amended, and for other purposes;

H. R. 5820. An act to aid in the development of improved prosthetic appliances, and for other purposes;

H. R. 6056. An act to amend an act of Congress approved February 9, 1881, which granted a right-of-way for railroad purposes through certain lands of the United States in Richmond County, N. Y.;

H. R. 6067. An act authorizing the execution of an amendatory repayment contract with the Northport irrigation district, and for other purposes;

H. R. 6091. An act to withdraw certain land as available land within the meaning of the Hawaiian Homes Commission Act of 1920 (42 Stat. 108), as amended, and to restore it to its previous status under the control of the Territory of Hawaii;

H. R. 6188. An act to confer jurisdiction over the Fort Des Moines Veterans' Village upon the State of Iowa; and

H. J. Res. 371. Joint resolution to authorize the issuance of a stamp commemorative of the golden anniversary of the consolidation of the Boroughs of Manhattan, Bronx, Brooklyn, Queens, and Richmond, which boroughs now comprise New York City.

COIN COMMEMORATING ONE HUNDREDTH ANNIVERSARY OF ORGANIZATION OF MINNESOTA AS TERRITORY—VETO MESSAGE (S. DOC. NO. 152)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying bill, was referred to the Committee on Banking and Currency:

To the Senate:

I am returning herewith, without my approval, S. 1304 "To authorize the coinage of 50-cent pieces in commemoration of the one hundredth anniversary of the organization of Minnesota as a Territory of the United States."

The proposed legislation would authorize the coinage of not to exceed one hundred and fifty thousand silver 50-cent pieces in commemoration of the one hundredth anniversary of the organization of Minnesota as a Territory of the United States.

We are all proud of the fine achievements of the people of Minnesota. I believe that it is proper for the Nation to share in commemorating the milestones of Minnesota's development. But I am convinced that it is not a wise national policy to issue special coins for this purpose.

On July 31, 1947, I withheld my approval of H. R. 1180, a bill "To authorize the coinage of 50-cent pieces in commemoration of the one hundredth anniversary of the admission of Wisconsin into the Union as a State." In my memorandum of disapproval I pointed out that the fundamental difficulty of issuing special coins for commemorative occasions is that such coins would be full legal tender. It is clearly unwise to require a multiplicity of designs on United States coins which would create confusion in our monetary system, facilitate counterfeiting, and encourage traffic in commemorative coins for private profit.

This point was well stated by President Hoover in vetoing a similar bill in 1930. He said:

> There are a great many historical events which it is not only highly proper but desirable to commemorate in a suitable way, but the longer use of our coins for this purpose is unsuitable and unwise. This would seem to be clear from the very number of events to be commemorated, and past experience indicates how difficult it is to draw the line and how such a practice, once it is recognized, tends constantly to grow. If this bill is to become law, it is not apparent on what grounds similar measures, no matter how numerous, may be rejected. Yet their enactment in such numbers must bring further confusion to our monetary system.

The bill which I am now returning illustrates the difficulty of establishing any rule denominating the events of national importance which should be commemorated by the issuance of special coins. Thus, each of the 48 States has an anniversary of statehood to celebrate. Many of them have anniversaries of their formation as Territories and some could appropriately commemorate their establishment as colonies. Furthermore, there are many historic cities and towns whose anniversaries are of national importance. The United States has participated in a number of celebrated wars and campaigns. Moreover, we have had our great explorers, our great pioneers, our great statesmen—our great heritage of notable men and women. If we were to commemorate them all with special coins we would be starting down an endless path.

The accuracy of this statement is indicated by the fact that bills are now before the Congress to issue special coins commemorating no less than 17 other notable events in our history. I am sure that there are many other events equally worthy of national recognition.

In 1890, the Congress of the United States laid down a rule that the design on the coins of the United States should not be changed oftener than once in 25 years. The purpose of this rule was to prevent multiplicity of coinage issues and the consequent confusion of the public and the facilitating of counterfeiting. Every issuance of a special coin is in derogation of this wise rule, and I cannot approve such a practice.

There is a further difficulty. In almost every case in which a commemorative coin is issued, a part of the issue finds its way into the hands of dealers in coins, and the greatest profit is made by them rather than by the worthy organization which sponsors the issue. In this connection, I call to the attention of the Congress a fine report issued in 1939 (H. Rept. No. 101, 76th Cong.) by the late Congressman John Cochran in which he graphically revealed the abuses which have resulted from multiple issues of commemorative coins.

It is for these reasons that President Hoover and President Franklin Roosevelt recommended that commemorative medals, rather than coins, should be issued for events of national importance. I believe this policy is sound, and in February 1947 I recommended that the Congress enact appropriate legislation. I am pleased to note that in January 1948 the Senate passed S. 865, which would carry out this recommendation. I hope that the Congress will complete its action on this legislation in the near future, and that the Congress will then approve a commemorative medal for the 1949 anniversary of Minnesota's organization as a Territory.

For the reasons stated above, I feel compelled to return S. 1304 without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 4, 1948.*

JEANETTE C. JONES AND MINOR CHILDREN—VETO MESSAGE (S. DOC. NO. 153)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying bill, was referred to the Committee on the Judiciary:

To the Senate:

I am returning herewith without my approval S. 1312, Eightieth Congress, "An act for the relief of Jeanette C. Jones and minor children."

The bill proposes to direct payment of the sum of $4,971.33 to Jeanette C. Jones, of New York, N. Y., for herself and minor children, in full settlement of all claims for alleged losses sustained due to erroneous advice gratuitously furnished by the Veterans' Administration with regard to her entitlement to death compensation benefits, and as retroactive payment of death compensation benefits for the period from April 16, 1932, to June 11, 1939, based upon the death of her husband, Paul Jones, late a veteran of World War I.

The basis of favorable action in this case by the Congress appears to be the alleged erroneous advice furnished Mrs. Jones by the Veterans' Administration, presumably in a letter of May 10, 1932, subsequent to the death of her husband on April 15, 1932. In the letter Mrs. Jones was advised, among other things, that:

> Evidence on file in this case has been carefully considered but it has been determined that the veteran's death is not shown to have been due to his military service, consequently, there will be no compensation benefits payable on behalf of his dependents.

I am informed by the Administrator of Veterans' Affairs that this advice was not erroneous. The evidence of record at that time did not warrant a determination of service-connected death. It is noteworthy in this connection that for many years prior to death the veteran himself had been unable to establish service-connection for his disability although he had actively pursued his claim. It was not until additional data, never before made available to the Veterans' Administration, was submitted in 1940 by Mrs. Jones, and until a field investigation was conducted by the Veterans' Administration in the same year as a result of the submission of that additional data, that the state of the record in this case warranted an award to Mrs. Jones. In accordance with law, the initial payment of $1,021.93 covered the period from June 12, 1939 (the date claim was filed), through September 30, 1940.

The current award is in the amount of $60 monthly.

It seems to me that the action of the Congress in this case fails to recognize the well-settled principle that the burden of proving entitlement to a gratuity from the Government rests upon the one who claims and not upon the Government. The letter of May 10, 1932, in no wise precluded Mrs. Jones from pursuing a claim for death compensation. As a matter of fact she did just that when she filed a claim in 1939 and furnished additional data in 1940. In my judgment, it was her inaction, and not the action of the Veterans' Administration, which brought about any loss of compensation which she may have suffered.

The reports of the congressional committees which considered S. 1312 disclose a feeling that this case is unique and that there is no danger that congressional recognition of this moral claim will set any dangerous precedent. I am advised by the Administrator of Veterans' Affairs that this case is similar in principle to innumerable others wherein by reason of inaction on the part of claimants, and their failure to produce evidence promptly, awards of death compensation are not payable under general law retroactively to the date of a veteran's death, but rather from some later date when the necessary evidence was furnished. In other words, approval of this bill could serve as a precedent for many others.

Under the circumstances, I am constrained to withhold approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 4, 1948.*

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROGRESS REPORT OF WAR ASSETS ADMINISTRATION

A letter from the Administrator of the War Assets Administration, transmitting, pursuant to law, the first quarterly progress report of that Administration, for the period January 1 through March 31, 1948 (with an accompanying report); to the Committee on Expenditures in the Executive Departments.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Archivist of the United States, transmitting, pursuant to law, a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The PRESIDENT pro tempore appointed Mr. LANGER and Mr. CHAVEZ members of the committee on the part of the Senate.

PETITIONS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the Board of Commissioners of the City of Las Vegas, Nev., favoring the enactment of legislation providing statehood for Hawaii; to the Committee on Interior and Insular Affairs.

A resolution adopted by the California Society of the Sons of the American Revolution, San Francisco, Calif., favoring the enactment of legislation providing adequate military training; to the Committee on Armed Services.

A resolution adopted by the California Society of the Sons of the American Revolution, San Francisco, Calif., favoring the enactment of legislation providing for the control of the activities of the Communist Party in the United States; to the Committee on the Judiciary.

By Mr. GREEN:

A resolution of the General Assembly of the State of Rhode Island; to the Committee on Finance:

"Resolution requesting the United States Veterans' Administration to carry out its promise to the city of Providence and the State of Rhode Island in the matter of the construction of a regional office at Davis Park for service to the veterans of Rhode Island and southeastern Massachusetts

"Whereas the city of Providence, at the request of the Honorable Dennis J. Roberts, mayor, by act of the city council, on February 16, 1945, with the consent of the State of Rhode Island, gave to the United States Veterans' Administration, Davis Park for the express purpose of the construction of a hospital for the care of veterans and for the construction of a regional office to handle matters between the United States and veterans living in Rhode Island and southeastern Massachusetts; and

"Whereas the present United States Veterans' Administration is located in four separate buildings: 100 Fountain Street, Hope Street High School, third floor of the Post Office Annex, and fourth floor of the Post Office Building; and

"Whereas the separation of the Veterans' Administration regional office in Providence is such as to cause great delay and inconvenience in the handling of veterans' matters and necessitates that veterans travel from building to building, resulting in confusion, delay, and possible loss of irreplaceable records; and

"Whereas the construction of a regional office at Davis Park would result in great financial saving to the Government as the present rentals and overhead expenses amount to much more than if the office were located in a building at Davis Park owned by the Federal Government: Now, therefore, be it

"*Resolved*, That the Rhode Island General Assembly requests that the United States Veterans' Administration carry out its promise to the city of Providence and the State of Rhode Island in the matter of the construction of a regional office at Davis Park for service to the veterans of Rhode Island and southeastern Massachusetts; and be it further

"*Resolved*, That duly certified copies of this resolution be transmitted by the secretary of state to the Senators and Representatives from Rhode Island in the Congress of the United States and to the Administrator of the United States Veterans' Administration."

A resolution of the House of Representatives of the Legislature of the State of Rhode Island; to the Committee on Foreign Relations:

"House resolution protesting against the Federal embargo on shipment of arms to Palestine

"Whereas on November 29, 1947, the United Nations General Assembly in an historic action voted for the partition of Palestine and since the vote, the Arab States, themselves members of the United Nations, are engaged in arming themselves to resist by force the carrying out of said resolution; and

"Whereas we must not lose sight of the fact that unless the United Nations' decision is carried out the foregoing vote of the United Nations General Assembly becomes a mockery; and

"Whereas the recent Federal embargo on shipment of arms to Palestine will frustrate the carrying out of such decision; and

"Whereas the United States is in a position to take swift action in the immediate emergency and demonstrate to all the world that we stand in back of our commitments and our promise means performance: Now, therefore, be it

"*Resolved*, That the Rhode Island House of Representatives now calls upon the Federal Government to lift or modify the embargo on shipment of arms to Palestine in aid of the Jews there, and thereby permit them to defend themsleves from attack and urges the President of the United States of America, the United States delegate to the United Nations, and the Secretary of State to support the following measure:

"A stern warning to the Arab States calling for an end of their resistance to and sabotage of the United Nations' decision; and be it further

"*Resolved*, That duly certified copies of this resolution be transmitted by the recording clerk of the House of Representatives to the President of the United States of America, to the Secretary of State in the United States State Department, to Warren E. Austin, United States delegate to the United Nations, Lake Success, N. Y., and to the Senators and Representatives from Rhode Island in the Congress of the United States."

PROTEST AGAINST MILITARY DRAFT—LETTER FROM DR. PAUL B. McCLEAVE

Mr. CAPPER. Mr. President, I present for appropriate reference and ask unanimous consent to have printed in the RECORD an interesting letter regarding the proposed military draft which has come to me from Dr. Paul B. McCleave, president of the College of Emporia, Emporia, Kans.

There being no objection, the letter was received, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

THE COLLEGE OF EMPORIA,
Emporia, Kans., April 28, 1948.

Senator ARTHUR CAPPER,
Senate Chamber, Washington, D. C.

DEAR SENATOR CAPPER: It is with regret that I have been reading of the action of the Senate Committee on Military Affairs these last few days. Regret in the sense that seemingly our Congress is being swept off its feet because of a fear psychology and because of the pressure of the military interests in our country.

I am writing to you in the interest of the thousands of young men in the State of Kansas and especially those who are on my campus at the present time, and for the seniors of our high schools who graduate this spring. I am writing requesting that you and Senator REED vote "no" on any draft bill which may come on the floor of the Senate within the next few days.

Have you realized that if the 19-year-old draft measure is passed, the seniors in our high schools of today who are 18 will not attend college, because they know the following year they will be drafted. Upon being drafted at 19 they will serve their time, and they will return, not to find an education, but to find a job to continue a common, ordinary sort of life. The need today is for highly trained technical individuals. Individuals who are skilled in their fields with vision of opportunities, and these can only be accomplished by the opportunities which are afforded in higher education. If you vote for the draft, you destroy the opportunities with the possibility of developing these needs in the minds of our youth.

When we prepare as a nation, let us not fool ourselves that we are preparing for peace, for no nation in the history of the

world has ever prepared that it has not led to war. The United States has no one to fear today, and you, as a Senator, knowing the inside of political affairs, know this better than we who strive to find answers to the world's problems in the position as laymen. Thus, why the fear? Why the need of massing infantry? Why the draft?

I plead with you that you stop and think before you vote for a draft. I assure you, though my influence and effort is limited, that I shall do nothing but work toward this end in this State in these coming days.

Sincerely,

PAUL B. MCCLEAVE,
President.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BUTLER, from the Committee on Interior and Insular Affairs:

S. 2479. A bill providing for the suspension of annual assessment work on mining claims held by location in the United States; without amendment (Rept. No. 1239);

H. R. 5262. A bill to authorize the sale of individual Indian lands acquired under the act of June 18, 1934, and under the act of June 26, 1936; without amendment (Rept. No. 1232);

H. R. 5651. A bill authorizing the Secretary of the Interior to convey certain lands in South Dakota for municipal or public purposes; without amendment (Rept. No. 1233); and

H. R. 5669. A bill to provide for adjustment of irrigation charges, on the Flathead Indian irrigation project, Montana, and for other purposes; with an amendment (Rept. No. 1234)

By Mr. THYE, from the Committee on Post Office and Civil Service:

S. 2224. A bill to amend the Veterans' Preference Act of 1944 with respect to the priority rights of veterans entitled to 10-point preference under such act; without amendment (Rept. No. 1235).

By Mr. LANGER, from the Committee on Post Office and Civil Service:

H. R. 3638. A bill to amend section 10 of the act establishing a National Archives of the United States Government; without amendment (Rept. No. 1236);

H. J. Res. 340. Joint resolution to authorize the issuance of a special series of stamps commemorative of the one hundredth anniversary of the founding of the American Turners Society in the United States; without amendment (Rept. No. 1237); and

H. J. Res. 341. Joint resolution to authorize the issuance of a special series of stamps commemorative of the one hundredth anniversary of the founding of Fort Kearney in the State of Nebraska; without amendment (Rept. No. 1238).

By Mr. ECTON, from the Committee on Interior and Insular Affairs:

H. R. 5118. A bill to authorize the sale of certain individual Indian land on the Flathead Reservation to the State of Montana; without amendment (Rept. No. 1240).

REPORT ON DISPOSITION OF EXECUTIVE PAPERS

Mr. LANGER, from the Joint Select Committee on the Disposition of Executive Papers, to which was referred for examination and recommendation a list of records transmitted to the Senate by the Archivist of the United States that appeared to have no permanent value or historical interest, submitted a report thereon pursuant to law.

ELIMINATION OF POLL TAX IN FEDERAL ELECTIONS—INDIVIDUAL VIEWS OF MR. STENNIS

Mr. STENNIS submitted his individual views as a member of the Committee on Rules and Administration on the bill (H. R. 29) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers, which, pursuant to the order of the Senate of April 30, 1948, were ordered to be printed with the majority report (No. 1225).

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, May 4, 1948, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 1004. An act to amend the Atomic Energy Act of 1946 so as to grant specific authority to the Senate members of the Joint Committee on Atomic Energy to require investigations by the Federal Bureau of Investigation of the character, associations, and loyalty of persons nominated for appointment, by and with the advice and consent of the Senate, to offices established by such act;

S. 1132. An act to amend section 40 of the Shipping Act, 1916 (39 Stat. 728), as amended;

S. 1298. An act to validate payments heretofore made by disbursing officers of the United States Government covering cost of shipment of household effects of civilian employees and for other purposes;

S. 1545. An act to authorize a bridge, roads and approaches, supports and bents, or other structures, across, over, or upon lands of the United States within the limits of the Colonial National Historical Park at or near Yorktown, Va.;

S. 1611. An act to extend the time for completing the construction of a bridge across the Mississippi River at or near Sauk Rapids, Minn.;

S. 1985. An act to amend the act entitled "Boulder Canyon Project Adjustment Act," approved July 19, 1940; and

S. J. Res. 198. Joint resolution to authorize the Postmaster General to withhold the awarding of star-route contracts for a period of 60 days.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. VANDENBERG, from the Committee on Foreign Relations:

Howard Bruce, of Maryland, to be Deputy Administrator for Economic Cooperation;

Thomas C. Wasson, of New Jersey, to be the representative of the United States on the Truce Commission for Palestine;

Ely E. Palmer, of Rhode Island, to be Ambassador Extraordinary and Plenipotentiary to Afghanistan; and

John M. Stevens, of the District of Columbia, and several other persons for appointment in the diplomatic service.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BUCK:

S. 2598. A bill to permit investment of funds of insurance companies organized within the District of Columbia in obligations of the International Bank for Reconstruction and Development; to the Committee on the District of Columbia.

By Mr. THOMAS of Oklahoma:

S. 2599. A bill for the relief of Carl C. Ballard; to the Committee on the Judiciary.

By Mr. CHAVEZ:

S. 2600. A bill to amend and supplement the Federal-Aid Road Act, approved July 11, 1916 (39 Stat. 355) as amended and supplemented, to authorize appropriations for continuing the postwar construction of highways and for other purposes; to the Committee on Public Works.

By Mr. BREWSTER:

S. 2601. A bill to improve the administration of the Civil Aeronautics Act of 1938, and for other purposes;

S. 2602. A bill to provide for coordination of aviation policy, and for other purposes; and

S. 2603. A bill to provide for an independent Office of Air Safety, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MAGNUSON:

S. 2604. A bill to permit articles imported from foreign countries for the purpose of exhibition at the International Industrial Exposition, Inc., Atlantic City, N. J., to be admitted without payment of tariff, and for other purposes; to the Committee on Finance.

By Mr. CONNALLY:

S. 2605. A bill for the relief of the widow of Robert V. Holland; to the Committee on Armed Services.

By Mr. JOHNSON of Colorado:

S. 2606. A bill for the relief of Jeno Orgel; to the Committee on the Judiciary.

S. 2607. A bill to exempt certain proceedings for the adjudication of water rights from the provision of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended; to the Committee on Armed Services.

By Mr. WILSON:

S. J. Res. 211. Joint resolution to establish a joint congressional committee on small business; to the Committee on Banking and Currency.

(Mr. IVES introduced Senate Joint Resolution 212, to authorize the President, following appropriation of the necessary funds of the Congress, to bring into effect on the part of the United States the loan agreement of the United States of America and the United Nations signed at Lake Success, N. Y., March 23, 1948, which was referred to the Committee on Foreign Relations, and appears under a separate heading.)

CONSTRUCTION OF HEADQUARTERS OF THE UNITED NATIONS

Mr. IVES. Mr. President, as many Members of the Senate are aware, during the latter part of March, a representative to the United Nations negotiated a loan agreement in behalf of the United States with the United Nations to cover a loan to be made by the Government of the United States to the United Nations for the purpose of construction of a headquarters for the United Nations. It is not my purpose at this time to go into the merits of the proposal. I wish to point out, however, as I introduce a joint resolution to cover the matter, that it is necessary, if our Government is to proceed with the loan, to point out what has been done thus far by those who are interested parties. I have indicated the action taken by the representative of the United States to the United Nations and

I have indicated that a loan agreement has been negotiated between that representative and the United Nations. Insofar as we are concerned, all that is lacking is the approval of our own Government through legislative action by which the necessary appropriation for the loan can be made. In anticipation of such action, and even before the loan agreement was made, as is generally known, John D. Rockefeller, Jr., contributed approximately eight and a half million dollars for the purpose of a site for the headquarters of the United Nations. In addition to that, the city of New York obligated itself to the extent of $13,000,000, of which the city has already spent two and a half million in preparing the site for the headquarters. Therefore the foundation has already been laid for what is contemplated in this legislation. Everything has been done which can be done, except to get the approval of the Congress of the United States and the approval of the President with regard to the necessary legislation which would permit a loan.

At this time I introduce for appropriate reference a joint resolution which covers the matter in some detail. It provides for the amortization of the loan. Insofar as it is possible to do so, it lays down rather strict provisions guaranteeing to the United States protection in making the loan. It is not a first mortgage, to be sure. A first mortgage is impossible under the conditions of the loan agreement. A first mortgage would not be desirable. But insofar as it is possible to do so, there is contained in the terms of the resolution, in which is incorporated the loan agreement, stipulations, and specifications which, in effect, give to the United States a prior lien on the structure which will be erected for the headquarters of the United Nations.

The joint resolution (S. J. Res. 212) to authorize the President, following appropriation of the necessary funds of the Congress, to bring into effect on the part of the United States the loan agreement of the United States of America and the United Nations signed at Lake Success, N. Y., March 23, 1948, introduced by Mr. IVES, was read twice by its title, and referred to the Committee on Foreign Relations.

PRINTING OF ADDITIONAL COPIES OF HEARINGS RELATING TO LEGISLATIVE REORGANIZATION ACT OF 1946

Mr. AIKEN. Mr. President, I submit a resolution providing for the printing of 2,000 additional copies of hearings held before the Committee on Expenditures in the Executive Departments, relative to the Legislative Reorganization Act of 1946. We anticipate that there will be a considerable demand for copies of these hearings, and that is the reason for this resolution. I ask unanimous consent for its immediate consideration.

There being no objection, the resolution (S. Res. 229) submitted by Mr. AIKEN, was read, considered, and agreed to, as follows:

Resolved, That 2,000 additional copies of the hearings held before the Committee on Expenditures in the Executive Departments relative to the Legislative Reorganization Act of 1946 be printed for the use of said committee.

PREVENTION OF RETROACTIVE CHECKAGE OF RETIRED PAY OF CERTAIN ENLISTED MEN AND WARRANT OFFICERS—AMENDMENT

Mr. MAGNUSON submitted an amendment intended to be proposed by him to the bill (H. R. 5344) to prevent retroactive checkage of retired pay in the cases of certain enlisted men and warrant officers appointed or advanced to commissioned rank or grade under the act of July 24, 1941 (55 Stat. 603), as amended, and for other purposes, which was referred to the Committee on Armed Services, and ordered to be printed.

EMANCIPATION OF UNITED STATES INDIANS IN CERTAIN CASES—AMENDMENTS

Mr. BUTLER submitted amendments intended to be proposed by him to the bill (H. R. 1113) to emancipate United States Indians in certain cases, which were ordered to lie on the table and to be printed.

JURISDICTION OVER OFFENSES COMMITTED BY OR AGAINST CERTAIN INDIANS—AMENDMENT

Mr. BUTLER submitted an amendment intended to be proposed by him to the bill (H. R. 4725) to confer jurisdiction on the several States over offenses committed by or against Indians on Indian reservations, which was ordered to lie on the table and to be printed.

HOUSE BILLS AND JOINT RESOLUTION REFERRED OR PLACED ON CALENDAR

The following bills and joint resolution were severally read twice by their titles, and referred, or ordered to be placed on the calendar, as indicated:

H. R. 1608. An act to amend an act entitled "An act to authorize the Postmaster General to contract for certain powerboat service in Alaska, and for other purposes," approved August 10, 1939 (53 Stat. 1338);

H. R. 5272. An act relating to the compensation of certain railway postal clerks; and

H. J. Res. 371. Joint resolution to authorize the issuance of a stamp commemorative of the golden anniversary of the consolidation of the Boroughs of Manhattan, Bronx, Brooklyn, Queens, and Richmond, which boroughs now comprise New York City; to the Committee on Post Office and Civil Service.

H. R. 1896. An act to amend the act of May 29, 1944, so as to provide annuities for certain remarried widows; and

H. R. 5298. An act to establish Civil Air Patrol as a civilian auxiliary of the United States Air Force and to authorize the Secretary of the Air Force to extend aid to Civil Air Patrol in the fulfillment of its objectives, and for other purposes; to the Committee on Armed Services.

H. R. 3731. An act authorizing modifications in the repayment of contracts with the lower Yellowstone irrigation district No. 1 and the lower Yellowstone irrigation district No. 2:

H. R. 5587. An act to add certain lands to the Theodore Roosevelt National Memorial Park, in the State of North Dakota, and for other purposes;

H. R. 6056. An act to amend an act of Congress approved February 9, 1881, which granted a right-of-way for railroad purposes through certain lands of the United States in Richmond County, N. Y.;

H. R. 6067. An act authorizing the execution of an amendatory repayment contract with the Northport irrigation district, and for other purposes; and

H. R. 6091. An act to withdraw certain land as available land within the meaning of the Hawaiian Homes Commission Act of 1920 (42 Stat. 108), as amended, and to restore it to its previous status under the control of the Territory of Hawaii; to the Committee on Interior and Insular Affairs.

H. R. 4393. An act to provide for the distribution, promotion, separation, and retirement of commissioned officers of the Coast and Geodetic Survey, and for other purposes; and

H. R. 5144. An act providing for the conveyance of the Bear Lake fish-cultural station to the Fish and Game Commission of the State of Utah; to the Committee on Interstate and Foreign Commerce.

H. R. 4682. An act to amend the Federal Tort Claims Act to increase the time within which claims under such act may be presented to Federal agencies or prosecuted in the United States district courts; to the Committee on the Judiciary.

H. R. 5543. An act granting the consent of Congress to Carolina Power & Light Co. to construct, maintain, and operate a dam in the Lumber River; ordered to be placed on the calendar.

H. R. 5680. An act to provide for limiting participation as beneficiary under the National Service Life Insurance Act of 1940, as amended, and for other purposes; to the Committee on Finance.

H. R. 5820. An act to aid in the development of improved prosthetic appliances, and for other purposes; to the Committee on Labor and Public Welfare.

H. R. 6138. An act to confer jurisdiction over the Fort Des Moines veterans' village upon the State of Iowa; to the Committee on Public Works.

INFORMATION ON AGRICULTURAL COMMODITIES—STATEMENT BY SENATOR MAGNUSON

[Mr. MAGNUSON asked and obtained leave to have printed in the RECORD a statement made by him before the Senate Committee on Agriculture and Forestry regarding the gathering and dissemination of information on agricultural commodities, which appears in the Appendix.]

THE FREEDOM TRAIN—ARTICLE BY DAVID L. KIRK

[Mr. MAGNUSON asked and obtained leave to have printed in the RECORD an article entitled "May We All Be Worthy of the Freedom Train," written by David L. Kirk, and published in the Spokane Daily Chronicle of April 10, 1948, which appears in the Appendix.]

INFLATIONARY PROBLEMS

[Mr. MORSE asked and obtained leave to have printed in the RECORD a review of inflationary problems from the Monthly Business Review of April 15, 1948, which appears in the Appendix.]

SOCIALIZED MEDICINE

[Mr. BROOKS asked and obtained leave to have printed in the RECORD two editorials, one entitled "Anent Cash Awards for Cartoonist," and the other "Socialized Medicine and Communist Purpose," which appear in the Appendix.]

RECIPROCAL TRADE AGREEMENTS—EDITORIAL FROM THE CHRISTIAN SCIENCE MONITOR

[Mr. HATCH asked and obtained leave to have printed in the RECORD an editorial entitled "A Warning From History," relating to reciprocal trade agreements, published in the Christian Science Monitor of May 3, 1948, which appears in the Appendix.]

MEETING OF COMMITTEE DURING SENATE SESSION

Mr. WHERRY. Mr. President, I ask unanimous consent that the subcommittee of the Committee on the Judiciary considering Senate bill 1988 be permitted to sit during the session of the Senate today.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

REPEAL OF OLEOMARGARINE TAXES

Mr. WHERRY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hatch	Morse
Baldwin	Hayden	Murray
Ball	Hickenlooper	Myers
Brewster	Hoey	O'Daniel
Brooks	Ives	O'Mahoney
Buck	Johnson, Colo.	Reed
Butler	Johnston, S. C.	Robertson, Va.
Byrd	Kem	Robertson, Wyo.
Cain	Kilgore	Russell
Capper	Knowland	Saltonstall
Chavez	Langer	Smith
Connally	Lodge	Stennis
Cooper	Lucas	Thomas, Okla.
Cordon	McCarthy	Thomas, Utah
Donnell	McClellan	Thye
Downey	McFarland	Tobey
Dworshak	McGrath	Tydings
Eastland	McKellar	Vandenberg
Ecton	McMahon	Watkins
Ellender	Magnuson	Wherry
Ferguson	Malone	Wiley
Flanders	Martin	Williams
Fulbright	Maybank	Wilson
Green	Millikin	Young
Gurney	Moore	

Mr. WHERRY. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from South Dakota [Mr. BUSHFIELD], the Senator from New Jersey [Mr. HAWKES], the Senator from Indiana [Mr. JENNER], and the Senator from West Virginia [Mr. REVERCOMB] are necessarily absent.

The Senator from New Hampshire [Mr. BRIDGES] is necessarily absent on official business.

The Senator from Indiana [Mr. CAPEHART] is absent because of illness in his family.

The Senator from Maine [Mr. WHITE] is absent because of illness.

Mr. LUCAS. I announce that the Senator from Georgia [Mr. GEORGE] and the Senator from Tennessee [Mr. STEWART] are absent because of illness in their families.

The Senator from Kentucky [Mr. BARKLEY] and the Senators from Alabama [Mr. HILL and Mr. SPARKMAN] are absent on public business.

The Senators from Florida [Mr. HOLLAND and Mr. PEPPER] and the Senator from Idaho [Mr. TAYLOR] are absent by leave of the Senate.

The Senator from Nevada [Mr. MCCARRAN], the Senator from Maryland [Mr. O'CONOR], the Senator from Louisiana [Mr. OVERTON], the Senator from North Carolina [Mr. UMSTEAD], and the Senator from New York [Mr. WAGNER] are necessarily absent.

The PRESIDENT pro tempore. Seventy-four Senators have answered to their names. A quorum is present.

Under authority of paragraph 1 of rule VII the Chair lays before the Senate for its second reading, H. R. 2245, which the clerk will read by title.

The LEGISLATIVE CLERK. A bill (H. R. 2245) to repeal the tax on oleomargarine.

The PRESIDENT pro tempore. The Chair wishes to make a general statement of the parliamentary situation so that all Senators may be fully advised of the procedure which is contemplated. There is an unfortunate conflict in construction between rule XIV of the Senate and section 137 of the Reorganization Act. At the moment it is needless to go into the details of this conflict, but it turns finally, apparently, upon the pure question as to who is first recognized by the Chair to assert his rights under these two conflicting rules.

The situation has never heretofore arisen. Therefore, we are making an entirely new precedent—a point which can be of very serious moment to the conduct of the business of the Senate. Therefore, the Chair proposes that the Senate shall settle the matter for itself.

In order to accomplish this result, the following procedure is necessary. The Chair will first recognize the Senator from Nebraska [Mr. WHERRY] to raise the question, which he is entitled to raise under section 137 of the Reorganization Act, which requires the Chair, without debate, to make a reference of the pending bill to the committee which in his judgment has appropriate jurisdiction. When that motion has been made by the Senator from Nebraska, and recognized, the Chair will recognize the Senator from Arkansas [Mr. FULBRIGHT] to raise a point of order regarding the priority of his rights under rule XIV of the Senate. When the Senator from Arkansas has made his point of order, the Chair, under rule XX of the Senate, will submit to the Senate itself, for decision, the question whether the Senator from Arkansas is entitled to priority under rule XIV, or whether the Senator from Nebraska is entitled to priority under section 137 of the Reorganization Act. This procedure has been discussed with all concerned, and seems to be the fairest way to resolve an exceedingly difficult and perplexing parliamentary impasse.

The Chair recognizes the Senator from Nebraska.

Mr. WHERRY. Mr. President, from a reading of the discussion and proceedings in the CONGRESSIONAL RECORD of yesterday concerning House bill 2245, there appears to be a difference of opinion as to which committee of the Senate has jurisdiction over the proposed legislation. In view of the fact that such a controversy has arisen in this case, it is my belief that under the provisions of section 137 of the Legislative Reorganization Act of 1946, it now becomes the duty of the President pro tempore of the Senate to decide the question of jurisdiction, and I ask the Chair to rule on that question of jurisdiction and on the question of reference to the committee to which the bill should be referred.

The PRESIDENT pro tempore. The Chair is prepared to rule, but first recognizes the Senator from Arkansas [Mr. FULBRIGHT].

Mr. FULBRIGHT. Mr. President, I make the point of order that under rule XIV, paragraph 4, after the second reading of the bill, if objection is made to further proceedings, it shall be placed on the calendar. The language of that rule is very clear. I also submit that under the interpretation requested by the Senator from Nebraska that every bill——

The PRESIDENT pro tempore. The Senator is not entitled to debate the point of order until it is submitted to the Senate.

The Senator from Arkansas raises the point of order that he is entitled under rule XIV of the Senate to exercise his priority of right to ask that after the second reading of the bill, which has just occurred, it shall go to the calendar. The Chair proposes to submit that question to the Senate under rule XX. The question submitted to the Senate is as follows: Is the point of order of the Senator from Arkansas well taken? Upon that the Senate will vote yes or no.

The question now submitted under rule XX is subject to debate, and the Chair again recognizes the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I might cite as the first authority for the point of order, the ruling of the Chair on yesterday by which the Senator from California [Mr. DOWNEY] was recognized for a similar purpose respecting a highly controversial bill. In fact I am sure it will arouse and has aroused already as much controversy as the oleomargarine bill. I refer to the so-called tidelands bill. On yesterday that bill was sent directly to the calendar by the ruling of the Chair under rule XIV.

The language of rule XIV is very clear. It is not for me to justify that rule on its merits, because I can see that there is possibility of its use to circumvent the comittees in many instances. The rule has not been often employed, but it stands, and I think that the ruling, under the present conditions, must be in accord with the provisions of paragraph 4 of rule XIV.

For the benefit of some of the Members of the Senate who were not present yesterday, I should like to read the provision. It is as follows:

> 4. Every bill and joint resolution reported from a committee, not having previously been read, shall be read once, and twice, if not objected to, on the same day, and placed on the calendar in the order in which the same may be reported; and every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee—

And this is the important part—

> shall, if objection be made to further proceeding thereon, be placed on the calendar.

That last sentence is the whole crux of the matter. It seems to me that in the interpretation and application of the rule there is only one reasonable way to apply it, and that is that after the second reading of a bill the Chair then would be in the attitude of saying to the Senate, "Is there objection?", which would give an opportunity for objection at that point; otherwise the rule would be meaningless; and at that point, if any Senator

does object—exactly as happened on yesterday when the Senator from California [Mr. DOWNEY] did object to further proceedings on the tidelands bill—the bill should be sent to the calendar. I think that is the only reasonable interpretation of rule XIV.

The alternative, I should say, is that the Chair, by recognizing any Senator who might raise a point of controversy respecting a bill—something which is inherent in every bill, of course—would completely nullify the rule. I think the rule must be abided by and interpreted reasonably; otherwise it stands there as a possibility for such action in respect to all legislation, and it is very important that the Senate clarify the application of the rule. If it is applied as it is written, then we shall know how to proceed. If it is applied as the Chair has indicated it may be—by recognizing some Senator to raise the point of controversy under section 137—we shall be in an indefinite position at all times. The Senate will be subject at any time, when any bill comes to the Senate from the House, to having it placed on the calendar without going to a committee. So the only reasonable way for it to be applied is by the recognition under rule XIV of an objection after the second reading.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. FERGUSON. If the point of order were well taken, would it not mean that from now on all bills coming from the House would go on the calendar?

Mr. FULBRIGHT. If objection were made after the second reading; that is correct.

Mr. FERGUSON. Any Member of the Senate could have the bill placed on the calendar.

Mr. FULBRIGHT. That is correct. I invite the Senator's attention to the fact that that is exactly what happened yesterday in connection with the tidelands bill.

Mr. FERGUSON. That happened yesterday because no Senator had taken the initiative to refer it to a committee. Now we have a motion for a decision on the question of reference. According to the Senator's interpretation of the rule, any Member of the Senate could have the bill placed on the calendar, and then the only way to get it to a committee would be by majority vote.

Mr. FULBRIGHT. On motion.

Mr. FERGUSON. On motion and by a majority vote.

Mr. FULBRIGHT. Yes.

Mr. FERGUSON. A tie vote would still leave it on the calendar.

Mr. FULBRIGHT. Is not that the real meaning of the rule? Is not that what the rule says?

Mr. FERGUSON. I do not so interpret the rule.

Mr. CORDON. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. CORDON. My question has no application to yesterday's situation. As I understand the RECORD of yesterday, there was no attempt by the Chair to refer the tidelands bill. Yesterday, when the bill was read for the second time, there was no action on the part of the Chair to refer that bill to any committee. The Senator from California [Mr. DOWNEY] then objected to further consideration. So my question would not be applicable to that situation, but it would be applicable to this situation.

I shall go a little further, if I may, with the Senator's indulgence. Assuming that the bill is read the first and second time, and having in mind the provisions of section 137 of the Reorganization Act, which now directs the Chair to refer bills to committees, giving the Senate only the right of appeal—in view of that section of the Reorganization Act and the provisions of paragraph 4 of rule XIV, assuming that a bill is read twice, and at that time, even though a Senator has risen to his feet seeking recognition, the Chair, pursuant to his duty under section 137 of the Reorganization Act, seeks immediately to refer the bill to a committee. In that event, would not the provisions of paragraph 4 of rule XIV permit that to be done?

The point I make is that the right of the Chair with respect to reference to a committee is a prior right to the right of a Member of the Senate to object to further consideration.

I now come to the reading of the paragraph to which I wish to invite the Senator's attention. Frankly, I feel that the problem here is of far greater importance than any bill that can ever come before the Senate. It is a question of orderly procedure. That is the only reason I am taking the Senator's time. I hope he will indulge me for a few minutes longer.

Mr. FULBRIGHT. Does the Senator interpret section 137 of the Reorganization Act as directing the Chair to make the reference in the absence of a controversy having been suggested by a Member of the Senate? The language seems to provide that he shall exercise this duty only when some Senator has raised the question.

Mr. CORDON. I shall come to that question in a moment. However, in order to have the two provisions together, permit me to read a portion of paragraph 4 of rule XIV. I shall skip the first portion and start with the second line from the bottom, at the comma, which brings out all that is pertinent to my argument:

> And every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the calendar.

I invite the Senator's attention to the clause "without being referred to a committee." To me the use of those words in that sentence indicates that after the first and second reading there may be a reference to a committee; but if such reference be not made, then any Member of the Senate may object to further proceedings, and objection being made, the bill goes on the calendar. That would seem to me to be perfectly clear. If that interpretation were followed it would lead to a far more orderly handling of the business of the Senate.

Mr. FULBRIGHT. Mr. President, I do not see where the Senator finds the duty imposed upon the Chair to make such reference when no controversy has been suggested by a Member of the Senate at that point. Such an interpretation would leave bills coming over from the House in a very indefinite situation. The Chair may, on his own motion, make the reference; or, if he neglects to do so, any bill may be placed on the calendar, with the possible exception of appropriation bills. I believe it is specifically provided under the rules that they shall go to a committee. I believe that all other bills might be placed on the calendar, which is something very unexpected, I think to all Members of the Senate.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. HICKENLOOPER. I should like to ask a question of the Senator from Arkansas, the Parliamentarian, or anyone else who has been examining the question. The language "which shall have received a first and second reading without being referred to a committee" raises this question in my mind: Does that mean that if a first and second reading of a House bill or joint resolution is had, and then it is intended to proceed to a vote or to a third reading of the bill, objection can be made and the bill can be placed on the calendar, rather than proceeding to a third reading? The statement is not clear, but it seems that that language might lend itself to such an interpretation. I am wondering if that phase of the question has been explored.

Conceivably, a House bill coming over here could go to its first and second reading and then proceed immediately to a third reading, which would be preliminary to passage of the bill. My question is whether or not the rule in Jefferson's Manual means that objection can be interposed immediately after the second reading and before the third reading and passage and the bill placed on the calendar rather than proceeding to a third reading and passage.

It seems to me, with the meager knowledge I have of precedents, that the general connotation of the rule is that after the first and second reading of the bill it is referred to a committee unless an attempt is made to bring it to a third reading and passage immediately. I am making inquiry of the Senator from Arkansas as to the interpretation of the rule. I am not versed in the precedents. However, I think the rule might well be subject to that interpretation.

Mr. FULBRIGHT. Mr. President, I do not wish to take up too much time. Being a relatively new Member of the Senate, I do not profess to be an authority on the subject. I shall not undertake to explore the other possibilities in regard to the significance of the rule. It seems to me that generally it would be unfortunate for bills to be acted upon indiscriminately, without notice, under rule XIV. But the point is that the rule has been interpreted in this way; and, in all fairness, I think that, inasmuch as the rule was applied that way yesterday, if the rule means anything at all, it should be applied in exactly the same way in this case. If later on the Senate wishes to revise the rule, that will be a different matter.

But I do not think it would be proper to make a distinction in this case, based solely upon the question as to whether the Senator has raised the point under section 137 of the Reorganization Act. That would leave the matter in a wholly unsatisfactory situation. I believe the Senate must follow the language as it is written.

I should like to close my part of the debate and leave the remainder of the debate to other Senators who have had longer service and are much better versed in the Senate rules, and I shall be glad to have them elaborate on this subject.

Mr. WHERRY. Mr. President, first in raising the question of committee jurisdiction under section 137 of the Reorganization Act, it is my contention that a portion of a paragraph which I shall read later is in contradiction of rule XIV. I think there can be no doubt of that, if we consider the language itself, rather than the background under which the Reorganization Act was passed.

Let me state in the beginning that I am not passing on the merits of this bill when I take the position that I should like to have it referred. The question of the merits of the bill is not at this time before the Senate. Senators may be in favor of or may be opposed to the bill, or they may be in favor of having the bill referred to the Committee on Agriculture and Forestry or they may be in favor of having it referred to the Finance Committee, but those questions are not now before the Senate. What is before the Senate is in reality an interpretation by the Senate of paragraph 137 of the Reorganization Act. That is why it is vital that the decision be made today, because we shall be establishing a precedent, which, if adopted, will place section 137 in conflict at least with rule XIV; and if it is not, then I think either the section or the rule should be clarified.

So I should like to have the RECORD show that there is to be no determination on the merits of the bill in this connection. Neither is there to be a determination now as to whether the bill should be referred to one committee or another committee, until the ruling is made. After the ruling is made, if any Member of the Senate disagrees with the ruling as to the reference of the bill, of course he can appeal from the decision, and that question can be debated.

There was a difference between the status of the so-called tidewater lands bill and the oleomargarine bill at the time when the points as to procedure were made. In answering the question asked by the Senator from Iowa, which I think is very pertinent, let me say that we have to read paragraph 4 and all the other paragraphs in order to understand the full import of rule XIV. Let me suggest that paragraph 2 of that rule provides that—

> Every bill and joint resolution shall receive three readings previous to its passage, which readings shall be on three different days—

That means three different legislative days—

> unless the Senate unanimously direct otherwise; and the Presiding Officer shall give notice at each reading whether it be the first, second, or third: *Provided*, That the first or second reading of each bill may be by title only, unless the Senate in any case shall otherwise order.

So, Mr. President, each bill requires three readings, and requires that those readings be had on different days. I point out to the Senate that they must be different legislative days.

The third paragraph of rule XIV provides that—

> No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee—

Please note that it is not mandatory that a bill be referred to a committee. It may be referred to a committee, but, as I understand, there is no precedent which makes it mandatory that a bill be referred to a committee. It simply may be referred to a committee, after the second reading.

I read further from paragraph 3 of rule XIV:

> Bills and joint resolutions introduced on leave, and bills and joint resolutions from the House of Representatives, shall be read once, and may be read twice, on the same day, if not objected to—

Of course—

> for reference, but shall not be considered on that day nor debated, except for reference, unless by unanimous consent.

I think that clarifies the situation. In other words, it is not mandatory for the Presiding Officer to refer a bill to a committee after the second reading, but that may be done. That is discretionary with the occupant of the chair.

The portion of the fourth section of rule XIV on the basis of which the Senator from Arkansas relies in making his point of order reads as follows:

> And every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceedings thereon, be placed on the calendar.

The senior Senator from California invoked this rule for the first time since I have been a Member of the Senate. He had a perfect right to do so. He stood on the floor and was recognized, and then said, "Mr. President, I object to any further proceedings in connection with this bill."

Then what happened? What is provided in the rule happened. The bill went to the calendar; and when the bill is on the calendar it takes its place with all other bills on the calendar; and the only way it can be brought before the Senate is by motion. In other words, it would have to be made the pending business, and that could be done by means of a motion for the consideration of the bill, as in the case of any other bill.

After the proceedings in reference to the tidelands bill, the President pro tempore referred to House bill 2245, the oleomargarine bill, and the question relative to the committee to which the bill should be referred. At that point the Senator from Arkansas inquired about the operation of rule XIV in that connection and inquired whether the bill had been read either the first or the second time. At that point it had not been read either the first or the second time. I myself stated that it was my desire that a ruling be made on the question of reference of the bill. I requested such a ruling.

Finally, after much discussion and controversy, which the Senator himself admits in his remarks today, the Chair was asked by the acting majority leader if the bill could be read. After the first reading had occurred the Senator from Arkansas took advantage of the same rule of which the senior Senator from California [Mr. DOWNEY] also took advantage yesterday in connection with the tidelands bill, and asked that no further proceedings be had on that day in regard to that bill.

Yesterday the Senate adjourned, thus ending that legislative day, with the result that today we have a new legislative day.

Now we have the second reading of the bill. If the Senator's objection is sustained it will mean that after the second reading of the bill is had the bill will go to the calendar.

But prior to all that I raised once again the question of reference. The President pro tempore, who occupied the chair yesterday, as he does at this time, recognized the acting majority leader, the junior Senator from Nebraska, and I made the same statement that I made yesterday; namely, that a controversy had arisen with reference to which standing committee should have jurisdiction of the bill and the standing committee to which the bill should be referred, and I asked the Chair to rule. Of course, if no objection had been made the Chair would have ruled; and, regardless of whether the ruling thus made might have been favorable or unfavorable to any particular Senator, each and every Senator would have had the right, of course, to appeal from the ruling of the Chair, on the basis of the committee to which he preferred to have the bill referred. But a point of order was raised in keeping with the Legislative Reorganization Act of 1946. Section 137, to be found on page 24, which I should like to read at this time, contains the following language:

> In any case in which a controversy arises—

I want Senators to note the language—

> In any case in which a controversy arises as to the jurisdiction of any standing committee of the Senate—

"The jurisdiction of any standing committee of the Senate"—not of this committee, not of that committee. It means, in any case, no matter what it is, when a controversy arises. It does not say a controversy here, or a controversy there, but if any controversy arises—

> as to the jurisdiction of any standing committee with respect to any proposed legislation—

First, in any case; second, any controversy; third, jurisdiction; and last, with respect to any proposed legislation. It seems to me that covers the whole book. Then what happens? When the point is raised, according to section 137, the

Chair makes the ruling. Section 137 provides:

The question of jurisdiction shall be decided by the Presiding Officer of the Senate, without debate—

What else?—

in favor of that committee which has jurisdiction over the subject matter which predominates in such proposed legislation; but such decision shall be subject to an appeal.

It may be argued that that particular section has nothing to do with anything except the jurisdiction of a committee, or of a particular committee. That is what we have got to decide this morning. Does this paragraph mean what it says? Does it mean that the only question that can be raised, in the light of the Legislative Reorganization Act, is the question, to which committee shall a bill be referred? If it means what it says, it seems to me that when a controversy arises and it is pointed out to the Presiding Officer that there is a question of the jurisdiction of a standing committee with respect to any legislation, the Presiding Officer is called upon to make a ruling. If the Presiding Officer in making the determination rules that it shall go to one committee over another, which is a part of his duty, then of course Senators have a right to appeal.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. WHERRY. After one more statement I shall yield to the Senator from Georgia.

Of course, each and every Member of the Senate can do what he thinks proper. It is for Senators to decide whether there is any meaning in section 137. I am convinced that the arguments advanced by the distinguished Senator from Arkansas are correct. I believe a Senator who invokes rule XIV has a right to object to the first reading or the second reading, and that if objection is made, it is mandatory upon the Presiding Officer to have the bill placed on the calendar. I think there can be no dispute about it, if we look only to rule XIV, which I interpret as I see it.

Mr. FLANDERS. Mr. President, will the Senator yield?

Mr. WHERRY. In a moment, if the Senator please. I do not feel that that interpretation was intended by rule XIV, for the reason suggested by the Senator from Michigan [Mr. FERGUSON]. There cannot be orderly procedure in the Senate if each and every bill must go to the calendar upon objection. If that rule should be followed, the Senate would have to provide that a motion should be made that each and every bill so placed on the calendar should come off the calendar and onto the floor as the pending business, for assignment to a committee. That is my first point.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. WHERRY. In a moment. I have refused to yield to other Senators. I shall yield later. My second point is, if all bills go to the calendar, then the work of the standing committees would be by-passed. That was not intended. Certainly if we are to put all bills upon the calendar, thus by-passing the committees, which I have an idea is what was done by the distinguished Senator from California yesterday, the rule could be invoked for the benefit of one Senator, overriding the wish of other Senators, in the event of a tie vote, to prevent the Senate, in an orderly manner, sending bills to the standing committees, where they can be considered, where they can be discussed, where evidence may be taken, and the bill reported to the Senate in an orderly fashion, for debate and a third reading, to be followed in turn by either passage or rejection. If that is the correct interpretation of rule XIV, and if we are to invoke that rule each and every time a Senator does not want a bill referred to a standing committee, we shall then have utter confusion and chaos in our legislative procedure. It cannot be argued otherwise.

Mr. President, I am not sure that my interpretation of section 137 will be sustained by the Senate, but we are doing something more than simply passing judgment on the interpretation of section 137. We are in reality determining whether if and when there comes before the Senate a bill in respect to which a controversy arises, and any Senator asks the Presiding Officer for a ruling on the question of jurisdiction, and the Presiding Officer makes a ruling, there shall be an orderly determination of whether or not the bill shall be referred to this committee or that committee. In so doing we shall set a regular pattern that will obviate the difficulties which we now experience.

Just one more point, and then I shall conclude my remarks. Question might arise as to whether or not there was a controversy, and as to how the controversy should be raised. That point was made I think by one of the Senators yesterday, because at the time the Senator from Arkansas made his point of order, the complaint was made that no controversy had arisen, and there was no motion before the Senate. I should merely like to refer Members of the Senate to the CONGRESSIONAL RECORD of yesterday. There certainly was a controversy in the Senate about this bill. There was a controversy concerning whether it should be referred to any committee. There certainly was a controversy implied with respect to its reference to a certain committee. We all know that that is what is involved in respect to this bill, just as it was involved in respect to the bill which the Senator from California had placed on the calendar, as the result of his having invoked this particular rule. I do not know that it is necessary to read all the colloquy, but I shall read a portion of it:

Mr. WHERRY. Mr. President, the chair has laid down the business. It is the desire of the Senator from Nebraska that the ruling be made on the question of reference of the bill.

I raised that question before a point of order was ever made. As for the ruling under section 137 of the Legislative Reorganization Act, which I think I had a right to ask——

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. WHERRY. If the Senator will wait a moment, I shall yield.

Mr. FLANDERS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. Does the Senator from Nebraska yield?

Mr. WHERRY. I do not yield at this time for a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Nebraska declines to yield.

Mr. WHERRY. I should like to finish my observations, after which I shall be glad to yield to any Senator.

In the next place, as showing the existence of a controversy, I read the following statement by the Senator from Illinois:

Mr. LUCAS. Am I to understand the Chair to say that a point of order cannot be made under any circumstances, against what is now being attempted by the Chair?

The President pro tempore of the Senate replied:

The Chair does not understand the Senator's inquiry.

The Senator from Illinois:

Mr. LUCAS. Do I correctly understand the Chair to rule that simply because the Chair recognized the Senator from Nebraska, a point of order cannot be made or a statement cannot be made by the Senator from Arkansas in respect to a situation which, it seems to me, is on all fours with the similar situation which arose a few moments ago?

Of course, the Senator from Arkansas had a perfect right to invoke rule XIV, paragraph 4, if and when it is in order at any time. But I want to say to the distinguished Senators from Arkansas and Illinois that the Senator from Nebraska had already requested a ruling by the Chair, under section 137 of the Legislative Reorganization Act.

From that point, on page 5170 of the RECORD, there was continuous debate. Several times a demand was made for a ruling, and each time it was denied or foreclosed. The point is this: There was a difference, at the time the ruling was made, between the status of the tidelands bill and the status of the oleomargarine bill, although I agree that, at the proper time, in the reading of the bill, the rule could be invoked. That was after the Senator from Nebraska had asked for a ruling on the reference of the bill under section 137, which provides that where a controversy has arisen the Chair shall make a determination of jurisdiction and a further determination as to the committee to which the bill shall be referred.

I first yield to the Senator from Georgia, and then to the Senator from Vermont [Mr. FLANDERS].

Mr. RUSSELL. Mr. President, I largely agree with the Senator's able argument as to the inherent dangers of bypassing committees of the Senate. I would not favor a policy of parliamentary procedure which would deprive standing committees of their jurisdiction in the case of a bill which I favored any more than I would in the case of a bill which I opposed. Our whole parliamentary system is built upon the investigations conducted by committees. The detail work of legislation is done in the committees, and there should be no device which would enable a Senator to bypass a committee and deny it proper jurisdiction.

Mr. President, I think that some of the Senator's argument is somewhat specious and does not finally settle the question which is here involved. If the Chair had recognized the Senator from Nebraska yesterday, and if the Senator from Nebraska had insisted on the application of rule XIV to the olemargarine bill, if I correctly understand the Senator's argument, the Chair would have been compelled to order the bill to the calendar without any right——

Mr. WHERRY. Mr. President, I think I could have objected, as did the Senator from Arkansas [Mr. FULBRIGHT]. I could have made my appeal and could have brought the question to an issue under section 137, which we are doing today, in reverse.

Mr. RUSSELL. Under the Senator's argument, the Chair and one Senator could bypass a standing committee of the Senate as was done in the case of the tidelands oil bill. It would be left absolutely in the discretion of the presiding officer as to whom he should recognize. That would not be an effective way of complying with section 137 of the Reorganzation Act.

Mr. WHERRY. I think the Senator has improperly stated the situation. It would not have made any difference whether the Chair recognized the Senator from Nebraska under section 137 of the Reorganization Act, or had recognized the Senator from Arkansas, under rule XIV. Each one would have had the right to object and to appeal from the decision of the Chair if a ruling were made.

Mr. RUSSELL. Oh, no. Under the Senator's argument, if the Chair had recognized the Senator from Arkansas first and the Senator had asserted his right under rule XIV, the Chair would have had no option but to order the bill to the calendar. Then how could the Senator raise the question under section 137?

Mr. WHERRY. Would not the junior Senator from Nebraska have had a perfect right to disagree with the Chair's action sustaining the objection, to appeal from the decision of the Chair, and to argue and debate the question under section 137?

Mr. RUSSELL. I do not say that the Senator from Nebraska did not have the right to insist on section 137 when he was recognized. The point I raise is that if the Senator from Nebraska had insisted that the bill go to the calendar under rule XIV, there would have been no way to prevent it. There would have been no method of raising the question of jurisdiction under section 137. We have really done nothing toward deciding the question, in the way it is now presented to the Senate, except to say that the Chair and one Senator can operate under rule XIV to keep a bill from a standing committee, but that no single Senator can do so unless he is recognized, and that if a controversy is raised under section 137 the Senator raising it must be recognized first. That does not settle this very grave question.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. WHERRY. I shall yield next to the Senator from Vermont [Mr. FLANDERS], if the Senator from Georgia has concluded.

Mr. RUSSELL. I should like to ask the Senator some questions as to what would have happened when the Senator was first recognized if he had said, "Mr. President, I insist that this bill be read the second time and go to the calendar."

Mr. WHERRY. In other words, what would have happened if I had taken the same position as was taken by the Senator from Arkansas? Is that the question?

Mr. RUSSELL. Yes.

Mr. WHERRY. The bill would have gone to the calendar. I could have disagreed with the decision of the Chair. I could have appealed and presented in my appeal section 137. But I think the Senator from Nebraska is in a better position than he otherwise would have been under that procedure, because section 137 provides for the event of a controversy. I think the Senator from Nebraska was recognized even before the Senator from Arkansas had a right to make his objection, because the bill had not been read even once when he made his objection. So at the time I brought up the issue that there was a controversy and asked for a ruling, I did it under the provisions of section 137 of the Reorganization Act, which I had the right to do. At that time the President pro tempore made a ruling, and if his ruling had not been satisfactory an appeal could have been taken.

I now yield to the Senator from Vermont.

Mr. RUSSELL. Will the Senator indulge me for one further observation before he yields to the Senator from Vermont?

Mr. WHERRY. Yes; I shall be glad to.

Mr. RUSSELL. I am not complaining that the Senator from Nebraska asserted his rights under section 137. I am insisting that we are not making any progress in this matter when the Chair and one Senator can deny the jurisdiction of a standing committee of the Senate if the Chair recognizes a Senator to insist upon rule 14 rather than to raise the issue of jurisdiction under section 137 of the Reorganization Act.

Mr. WHERRY. The only way we can make progress, if we are to invoke rule XIV, is to change the rule. Otherwise any Senator can object to a reference being made; and the only way we can get a bill off the calendar is to get a special order. That certainly would cause chaos in the Senate. By asking an interpretation of section 137 when the Senator from Nebraska was recognized and requested that the bill be referred, a ruling would have been made. If it was a question of reference, we would have had a vote yesterday and the bill would have been referred yesterday. Today where is it? If the objection is sustained, it goes to the calendar. We can get it off the calendar only if there are sufficient votes to bring it up for consideration.

I now yield to the Senator from Vermont.

Mr. FLANDERS. Mr. President, in reading rule XIV, paragraph 4, I find a certain vagueness in the last sentence:

> which shall have received a first and second reading without being referred to a committee.

The inquiry I wish to make is, At whose discretion is a bill which is introduced referred to a committee or not referred to a committee?

The PRESIDENT pro tempore. The Senator is reading a section of the rule which is one of the imponderable factors in this entire contemplation. What the language probably means is that if a bill has received a first and second reading, but has not yet been referred in the interlude, this right can be invoked.

Mr. FLANDERS. That means, if the Presiding Officer had not spoken quickly enough.

The PRESIDENT pro tempore. If the Senate procedure had unrolled in due course. It is perfectly obvious, from the discussion, that the language is subject to various interpretations, and perfectly clearly, under the general situation with which the Senate is confronted, it is very important that the Committee on Rules and Administration should take rule XIV within its jurisdiction for a bit of laundering.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. WHERRY. I yield.

Mr. SALTONSTALL. Mr. President, I rise respectfully to say, in answer to the statement which the Chair has made, that I believe the rule should be interpreted in the light of the second paragraph on page 330 of Jefferson's Manual. I point out to the President pro tempore that yesterday, when the tidelands bill was being read, the President pro tempore said:

> Without objection, the bill will be regarded as having been read the second time, as is the usual procedure, for the purpose of permitting the Senator from California to be heard.

In paragraph 4 of rule XIV this language occurs:

> Every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee shall, if objection be made to further proceeding thereon, be placed on the calendar.

I submit, Mr. President, that the Chair should have said yesterday, before permitting the Senator from California to speak, "The question before the Senate is, Shall this bill be referred?" In the case of a contested bill, if no Senator makes such a motion, then the question may arise as to whether the bill should be read the third time, and at that point the Senator from California could object to its being read the third time.

The Senate is proceeding now under difficulty because of section 137 of the so-called La Follette law. If we adopt the procedure that was adopted yesterday, we shall get into a very difficult situation, because of what may be done in the future, perhaps, if Senators are not aware of what is happening.

I believe that the Chair is entirely correct in recognizing the Senator from Nebraska this morning to make a motion to

refer. I agree with the Senator from Georgia that if the ruling of yesterday shall stand, no Senator should be deprived of a fundamental right, the right to object, by the exercise of the Chair's discretion in recognizing A or in recognizing B.

But I submit, Mr. President, that section 137 of the Reorganization Act and paragraph 4 of rule XIV can be interpreted together. If, when such a question arises, the Chair puts the question, Shall this bill be referred? and if there is no motion that it shall be referred, then any Senator, as in the case of the Senator from California yesterday, can object to a third reading. But if we leave the procedure as it now seems to be, any bill coming over from the House can be read the second time, and if some Senator is on his toes, it can be objected to and placed on the calendar. This may be a very dangerous proceeding, because there will then be no reference to a committee.

I agree with the Chair that the two provisions should be correlated by an amendment to rule XIV, but I submit that in the present situation the Senate should follow the Chair in recognizing the Senator from Nebraska to make a motion to refer the bill to a committee. I personally shall so vote. I hope that then the Senator from Arkansas will appeal from the ruling of the Chair on the reference if he desires to do so, in order that the issue of the reference of the oleomargarine bill may then be debated and decided on the merits.

As I see it, the question before the Senate is one of procedure, and I say most respectfully that I believe the Chair yesterday should have put the question, Shall this bill be referred to a committee? If that had been done and the Senator from California not just permitted to have an opportunity to be heard, then the question as to whether the Senator from Arkansas today was losing a parliamentary right, the right to object, would not have been raised. I say that most respectfully and most humbly.

The PRESIDENT pro tempore. The Chair may make a simple comment, in order to keep the record straight.

The interpretation submitted by the able Senator from Massachusetts is one of several interpretations that could be made of the rule. It may be a preferable interpretation. There should be no preference left to the Presiding Officer in the application of a rule, and in that aspect the Chair totally agrees with the Senator from Georgia, and the sole purpose of the Chair this morning is to relieve the Chair of the privilege of outlawing the parliamentary rights of one Senator by recognizing another.

Mr. LUCAS. Mr. President, I appreciate very much the statement just made by the distinguished Presiding Officer. Obviously if we follow the rule now attempted to be invoked under section 137 of the Reorganization Act, what the Presiding Officer has stated is evidently correct. I know of no way by which the situation can be cured, under the present rules of the Senate and under the Reorganization Act.

The Senator from Illinois, like the Senator from Nebraska, is not at this time interested in the merits of the case; he is not interested in anything but orderly procedure from the standpoint of parliamentary law in the United States Senate.

In view of the fact that this is the first time any question has been raised under rule XIV during the life of any Senator now a Member of this body, so far as I know, and the distinguished Presiding Officer having made a ruling under rule XIV, thereby establishing a precedent on yesterday, the Senator from Illinois insists that in order for the Senate to be consistent as the result of that ruling, the Presiding Officer cannot make a different ruling the following day on a similar bill.

Mr. President, let me call attention to what happened yesterday. I refer to page 5168 of the CONGRESSIONAL RECORD under the caption "Ownership of tideland waters." The Senator from California [Mr. DOWNEY] was recognized, and the following debate followed:

Mr. DOWNEY. Mr. President, I ask that the President pro tempore lay before the Senate House bill 5992.

The PRESIDENT pro tempore. The Chair lays before the Senate House bill 5992, just received from the House, which will be read by title.

The LEGISLATIVE CLERK. A bill (H. R. 5992) to confirm and establish the titles of the States to lands beneath navigable waters within Stae boundaries and natural resources within such lands and waters and to provide for the use and control of said lands and resources.

The PRESIDENT pro tempore. Without objection, the bill will be regarded as having been read the second time, as is the usual procedure, for the purpose of permitting the Senator from California to be heard.

Mr. DOWNEY. Mr. President, I desire to object to any further proceedings on this measure at the present time.

Then the Senator from Illinois propounded a parliamentary inquiry as to the status of the bill, and the President pro tempore said:

The bill has been read the second time; and, under rule XIV, paragraph 4, objection to further proceedings results in placing the bill on the calendar instead of referring it to a committee. From the calendar any Senator at any time the bill is before the Senate for consideration can move to have it sent to the committee.

Mr. President, there is the precedent which the distinguished Presiding Officer laid down yesterday in connection with the tidelands bill. In other words, the Presiding Officer recognized the objection made by the Senator from California as valid under rule 14, and sent the tidelands bill to the calendar. That is the first precedent we have had under rule XIV for many, many years; no Senator can find any precedent prior to this time with respect to it.

Mr. President, I agree with the distinguished Presiding Officer that the conflict is an unfortunate one. I agree with the Presiding Officer that this is one of the serious moments in the history of the Senate, so far as parliamentary law is concerned, and I agree with all that has been said with respect to rule XIV, insofar as the creation of chaos and confusion is concerned as a result of some Senator coming forward at the proper time, making an objection, and having a bill sent to the calendar.

On the other hand, that is not the point before the Senate. The question is one of following a precedent laid down by the Presiding Officer yesterday, and if chaos and confusion result under this rule, the Committee on Rules and Administration should meet at once and do exactly what the Presiding Officer has suggested, namely, prepare an amendment to the rule so that chance for such difficulty in the future will be eliminated.

Mr. President, this is the position in which the Senate finds itself at the moment: Yesterday the tidelands bill went to the calendar upon objection. I agree with the Senator from Massachusetts [Mr. SALTONSTALL] in what he has said. In my humble opinion, under the strict construction of rule XIV, after the second reading of the bill the Chair should have asked whether there was objection to it, and if there had been no objection, then it should have been referred to the proper committee.

Mr. President, in what situation do we find ourselves today? The Chair, instead of following the precedent he set on yesterday, instead of recognizing the Senator from Arkansas, which would have been consistent with his recognition of the Senator from California, so that the Senator from Arkansas could have made objection and the bill have gone to the calendar—instead of that, the distinguished President Officer recognized the able Senator from Nebraska for the purpose of telling the Chair that a controversy exists as to what committee the oleomargarine bill should be referred. In my humble judgment, if we follow rule XIV strictly, and follow the precedent laid down on yesterday, before a bill can reach the point of reference it must have a first and second reading, and there must be a pronouncement by the Chair requesting whether or not there is objection to the bill, and if so, it goes to the calendar, and if no objection is made, then the reference is in order.

Mr. President, I totally disagree with the meaning which is ascribed to section 137 as taking any priority over the rule XIV of the Senate. Why is section 137 in the Reorganization Act?

Mr. CORDON. Mr. President, will the Senator yield?

Mr. LUCAS. I should like to finish the point if I may. Under the old system in vogue before the Reorganization Act came into being, a Senator would arise, receive recognition, and introduce a bill, and request that it be referred to, let us say, the Committee on Agriculture and Forestry. If there was any question about it at all the Senator himself had to raise the question. He could request or he could move that the bill be referred to the Committee on Agriculture and Forestry. The only difference between the old system and the system which prevails under section 137 of the Reorganization Act is simply that section 137 places the responsibility upon the Chair in the first instance of making the order of referral, and then if a Senator is not satisfied with the decision of the Chair he has the right to appeal. It seems to me that that is the only dis-

tinction between what we did in previous days and what we are doing at the present time under the Reorganization Act.

Mr. DOWNEY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. DOWNEY. I was not on the floor when the distinguished Senator from Illinois began his remarks. I do not know whether he called to the attention of the Senate the fact that I adopted a somewhat unusual procedure in asking the Chair to lay the bill before the Senate. The ordinary procedure is that when a bill comes to the Senate from the House, as a matter of routine action, unless some Senator calls for its presentation to the Senate, it automatically is referred to committee. A Senator has, however, under the rules, the right to ask that when a bill comes from the House it be presented to the Senate. I made that request. I held the floor. The distinguished Presiding Officer did what seems to me is clearly provided for; he followed the usual routine of asking unanimous consent to have the bill read the first and second times. I was then in possession of the floor. As I understand, I had three alternatives. I could have asked unanimous consent to have had the bill read the third time, and it would then have been on the Senate floor and open to amendment. I had the opportunity to ask that it be referred to a particular committee, and have raised the issue, or, clearly under the rule, I had the right, as I stated, to object to further proceedings, to prevent the bill going to a third reading, or to prevent it going to a committee, thus having it placed upon the calendar.

I might add that I cannot see that the Senate has been placed in a difficult situation. There is a bill on the subject now pending before the Committee on the Judiciary of the Senate. A majority of the Senate must consent to the bill being made the business of the Senate before any action can be taken. If a majority of the Senate wants to refer the bill to the committee it can do so.

I should like, with the kindness of the Senator from Illinois, to add one further thought.

Mr. LUCAS. Mr. President, I hope the Senator from California will not take too much of my time.

Mr. DOWNEY. I shall take only 2 or 3 minutes. The course I followed may be considered to be an unusual one, but I took it in order to avail myself of my right or remedy. I think I was clearly entitled to do what I did. I did it for one reason. By a heavy majority vote the House and the Senate passed a similar bill last year. By a vote of 10 to 1 the House this year passed the bill we are discussing. Without any reflection upon members of the Committee on the Judiciary, I will say that I understand that there is a question whether they will be able, for reasons of their own, and I am not critical, to report the bill now in committee in time for the Senate to act upon it. I have no desire to bypass the committee. I still think the committee has ample time to report the bill they have before it. I hope they will do so. But believing, as I do upon good ground, that there is a strong majority of the House and Senate now for the bill, I think I was entitled to use the ordinary parliamentary procedure to place the Senate in a position where a majority of the Senate could pass upon this question, if it desired, or if a majority of the Senate wanted to abide by the decision of the Committee on the Judiciary, and not even vote to have the bill taken up, a majority of the Senate could do that. In any event, I want to assure the distinguished acting majority leader and the Senate that there is not the slightest disposition on my part to fail to give the Committee on the Judiciary full opportunity either to report the bill now in committee favorably, or table it, or take whatever action it desires.

Mr. CORDON. Mr. President, will the Senator yield?

Mr. LUCAS. In one moment. I thought the Senator from California was going to ask me a question. However the statement made is perfectly all right in my time. Let me assure the Senator from California that I am not one who has been complaining about the procedure he took on yesterday. In my judgment he did what was within his right under the rules of the United States Senate. Criticism of what he did came from the other side, and I think it was unjustified, I will say to the Senator from California, so far as the rules of the Senate are concerned.

Mr. DOWNEY. I thank the Senator from Illinois.

Mr. LUCAS. I wish to make one further observation, Mr. President, and then I shall yield the floor, so far as the present discussion is concerned. I am still talking about orderly procedure in the United States Senate, and I am talking about fundamental parliamentary law. I seriously contend that when we adopt a policy one day and then repudiate it the next day we are not making substantial parliamentary law for the future of the Senate. That, however, is exactly what is being done here. In other words, the power is left in the hands of the Presiding Officer as to whom he shall recognize, and if the Presiding Officer is to be consistent with his ruling made on yesterday he must recognize the Senator from Arkansas because the Senator from Arkansas was on his feet yesterday to make the objection at the proper time, and the Senator from Arkansas was following yesterday the precedent which had been laid down by the Presiding Officer a few minutes before.

So what has happened? This great power has been left in the hands of the Presiding Officer, to be exercised as between one Member of the Senate and another, according to his whim, his caprice, his prejudice, or his political views. I say that with the utmost kindness to the distinguished Presiding Officer who is now in the chair, the President pro tempore, because in the time I have been in the Senate I have seen four presiding officers, and I will say to the Senate and to the country that the distinguished present Presiding Officer is one of the most fair and one of the most just men we have had to preside over the deliberations of this body.

The point I make, however, is that the President pro tempore laid down yesterday a precedent for the first time respecting rule XIV, and on the following day the same Presiding Officer, the President pro tempore, instead of recognizing the Senator from Arkansas in order to be consistent with what he did the day before, recognized the Senator from Nebraska, in order to get away from the point that the Senator from Arkansas was going to make.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. FULBRIGHT. Mr. President, I wish to clarify one point which was made by the Senator from Nebraska with respect to the timing of this action. Actually the question of controversy was raised by the Chair himself in the first instance. I invite attention to page 5170 of the RECORD of yesterday, in the second column. I submitted a parliamentary inquiry:

> Mr. FULBRIGHT. Is there any reason why House bill 2225 cannot be placed on the calendar in the same way that House bill 5992 was placed on the calendar?

This was before the Senator from Nebraska made any point about a reference or a controversy. The presiding officer answered:

> The Chair thinks so, in view of the fact that the question of reference has been reached, and submitted to the Senate by the Chair himself.

The question had not been presented by the Senator from Nebraska at that point at all. The Chair had raised the question in a preliminary stage. It was not subsequent to the statement of the Senator from Nebraska.

> Mr. FULBRIGHT. Does this action of the Chair preclude the operation of rule XIV?

I may say for the information of the Senate that I had inquired of the Parliamentarian on last Friday if rule XIV would apply. He informed me that he did not think so. I am referring, of course, to the operation of the rule with respect to placing the bill on the calendar. I may say further that the conditions are quite similar to those in connection with the tidelands bill, because a bill identical with the oleomargarine bill is now pending before the Finance Committee of the Senate. I introduced the bill last December. Similarly, there is a tidelands bill pending before the Committee on the Judiciary. So the argument that the bill is already before the committee, and that our action makes no difference, would apply in this instance.

I may add further that I had no real intention of placing this bill on the calendar, or even attempting to do so, until the action taken with reference to the tidelands bill. I had prepared no motion and had no intention of doing so.

I agree with everything the Senator from Illinois says about the merits of this rule. I seriously doubt that any bill should bypass the committee. I join in this appeal today largely because of the wish to clarify the situation, and not because of its bearing upon the oleomargarine bill. I hope Senators will understand that in my mind this has no bearing whatever on the merits of the

oleomargarine legislation. This is purely a question of parliamentary law, and I do not want the Members of the Senate to be confused.

Mr. LUCAS. Mr. President, I shall conclude with one further observation. I agree with everything that has been said with respect to rule XIV. Rule XIV is ambiguous; it is vague; it is uncertain; it is cockeyed, so far as reaching any agreement upon its proper interpretation. However, I undertake to say that we are not helping the situation by what we are about to do in connection with using section 137 to get around the rule. An interpretation of rule XIV has been made. That interpretation should be sustained if we are to have orderly procedure, and for obvious reasons the Chair should be relieved of the difficult situation involved in recognizing individual Senators on the floor of the Senate, when recognition amounts to a decision as to what may be done.

I sincerely hope that the point of order made by the Senator from Arkansas will be sustained; and I hope that after that the oleomargarine bill will go to the proper committee so that hearings may be held upon it. I am not trying to place the oleomargarine bill on the calendar in order to avoid hearings. What I am attempting to do is to sustain parliamentary procedure in the United States Senate, in order that we may avoid weaving all over the place, with a decision one day and, because of the power of the Chair, doing just the opposite the next day. That is not good for Senate procedure. It is not good for the country.

Mr. KNOWLAND. Mr. President, I do not intend to detain the Senate long. I think it should be perfectly clear, however, that my colleague the senior Senator from California [Mr. DOWNEY] should not be subject to any criticism for invoking a rule which is plainly a rule of the Senate, albeit it has apparently not been used for a considerable time.

Every protection we enjoy on the floor of the United States Senate rests on the rules, and usually there are good reasons for the rules. As a new member I have at times differed with my colleagues as to the advisability of some of the rules; but until they are changed, the Senate should, of course, follow them.

However, I believe that the able Senator from Massachusetts [Mr. SALTONSTALL] has raised a point which has not been given sufficient consideration. It involves the background of the rule which was invoked by my colleague, the senior Senator from California.

Those of us who have from time to time read the early proceedings of the United States Senate know that the committee system which we have gradually built up has been the result of evolution. In the early days of the Republic Senators did not have the volume of business that confronts the Senate today. Therefore in those days it was not customary to have standing committees. After the first and second reading of a bill, in many cases it was the procedure of the Senate to go to the third reading of the bill. The Senate might have adopted the alternative of meeting in Committee of the Whole, or referring the bill to a special committee. Our present system of numerous standing committees is something which has evolved over the years.

With particular reference to the rule which has been invoked, I invite attention to what the Senator from Massachusetts has already referred to, namely, page 330 of Jefferson's Manual. I read:

> In the Senate of the United States, the President reports the title of the bill, that this is the second time of reading it; that it is now to be considered as in a Committee of the Whole; and the question will be whether it shall be read a third time, or that it may be referred to a special committee.

In the Senate we operate according to a great many precedents. Apparently the rule under which we are proceeding, rule XIV, paragraphs 3 and 4, grew out of Jefferson's Manual.

I agree with the sentiments which have been expressed on the floor today. I speak as a member of the Committee on Rules and Administration. I think we have uncovered a rule which, unless it is corrected, will obviously lead to a great deal of legislative chaos. Therefore, regardless of the result of the vote on the pending question, I sincerely hope that the able chairman of the Committee on Rules and Administration, the junior Senator from Illinois [Mr. BROOKS], will call a meeting of the committee at the earliest possible time so that we may correct this situation. However, so long as the rule exists as it is now written, the senior Senator from California was merely standing on his rights as a Member of the United States Senate.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. MILLIKIN. I should like to address an inquiry to the distinguished Senator from California. I was not present yesterday, and my question may duplicate questions which arose yesterday. If so, I am sorry to intrude on the time of the Senator.

I notice that section 101 (a) of the Reorganization Act states that the rules contemplated by it shall supersede other rules only to the extent that they are inconsistent therewith. The referral provision in section 102 with respect to each standing committee contains the following language:

> To which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

The distinguished Senator from Nebraska [Mr. WHERRY] has pointed out section 137 of the Reorganization Act. I should like the opinion of the Senator from California as to whether or not the language which I have read supersedes other matters in the rules which might be in conflict.

Mr. KNOWLAND. I think the Senator has posed a $64 question in that regard. I am not seeking to evade the question, because I think it is one to which the Senate must give very careful consideration at this time. So far as legislative procedure is concerned, I think there is very little doubt in the minds of most of us that if as a matter of common practice we prevent committees from considering legislation, we shall develop a great degree of legislative chaos. I call the attention of the able Senator from Colorado, however, to the fact that the Constitution itself gives to each House—I do not have the exact language before me now—the power to establish its own rules and procedures. The Legislative Reorganization Act, of course, is an act of both Houses of Congress. I assume that to that extent the Senate rules may be amended by that act; and if that be the case, that has the effect, as I think the Senator from Colorado will agree with me, of having the House participate in an amendment of the Senate rules, inasmuch as the bill was passed by both Houses of Congress.

Mr. MILLIKIN. Mr. President, the Reorganization Act itself takes full recognition of that constitutional provision, when it says, in section 101 (b):

> With full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

My point is that these rules supersede the previously existing rules, to the extent that they have not been changed since and to the extent that there is conflict. These rules say without equivocation that all proposed legislation shall be referred to the respective committees, according to the jurisdiction outlined in the act.

Mr. KNOWLAND. Mr. President, I say to the Senator from Colorado that I think he has raised a very important point and one which I believe might very well be taken, namely, that inasmuch as the Reorganization Act came later than the particular rule referred to, the Reorganization Act, in effect, to that extent amended rule XIV.

Mr. MILLIKIN. If it did not, then there is no validity in the Reorganization Act.

Mr. KNOWLAND. And if so, then certainly there is a conflict between the Reorganization Act, particularly the section 137 to which the Senator has referred, and the existing rules of the Senate.

Mr. MILLIKIN. Section 137 fits in perfectly with the language which I have read, which makes it mandatory to refer bills to these committees.

Mr. WHERRY. Mr. President, I had not intended to go into a discussion of this matter at this time.

Mr. SALTONSTALL. Mr. President, will the Senator yield to me at this point?

Mr. WHERRY. I yield.

Mr. SALTONSTALL. I should like to say, in further answer to the Senator from Colorado, that I believe the provision of the Reorganization Act to which he has referred does not directly supersede rule XIV. The purpose of rule XIV is to give the Senate notice that the bill has been received at the desk, and it is read once so that the Senate has notice, and then it is read twice so that the Senate has notice. Then the question arises whether the bill should be referred under rule XIV. If there is a reference under rule XIV, then a bill which relates to agricultural mat-

ters must be referred to the Committee on Agriculture and Forestry.

Mr. WHERRY. Mr. President, the whole burden of the debate on the part of those Senators who support the objection, and who are thus opposed to a reference of the bill, seems to be that we are violating a precedent under rule XIV; and that under all the precedents if objection was made a bill went to the calendar; and that therefore we are in complete violation of rule XIV if we make a determination under section 137 of the Reorganization Act.

I should like to state that if that is all that is at stake in reference to this particular bill, it seems to me that the Senate might act on the question of eliminating rule XIV entirely or making some amendment to it. If the acting majority leader were now to request unanimous consent that rule XIV be suspended for the purpose of permitting a decision to be made in regard to the reference of this particular measure, would such unanimous consent be given? Would any Senator object to such a request, which would be made solely for the purpose of permitting a determination to be made in regard to the reference of this one bill?

Mr. MILLIKIN. Mr. President, I would object, because I think the Reorganization Act has already rendered that part of rule XIV inoperative, for the simple reason that the Reorganization Act says that all bills shall be referred to this, that, or the other committee, according to its jurisdiction. That provision conflicts with placing the bill on the calendar, without referral. By the express language of the Reorganization Act, anything which conflicts with it shall be governed by its terms.

Mr. WHERRY. Very well.

Mr. DONNELL. Mr. President, will the Senator yield to me?

Mr. WHERRY. I yield.

Mr. DONNELL. Mr. President, I have been greatly impressed by the point which has been made by the Senator from Colorado, and I think it well deserves the study and the respectful consideration of the Senate.

However, before considering that point, I should like to address myself to this proposition: It seems to me that clearly by the terms of subdivisions 3 and 4 of rule XIV it is contemplated that an opportunity to refer the bill shall have been afforded. Mention has been made today that subdivision 3 of rule XIV provides that—

> No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

Obviously, that portion of rule XIV means that there may be an opportunity for the reference of a bill to a committee, before some Senator may say that he instantaneously objects to any further proceedings, and may ask that the bill be placed on the calendar.

Therefore, it seems to me that both paragraph 3 and paragraph 4 of rule XIV obviously contemplates that before any Senator immediately following the second reading of a bill shall have a right by mere objection to prevent any further proceedings, with the result that the bill is then placed on the calendar, opportunity must be afforded to the Senate or to the Presiding Officer of the Senate, or both, to refer the bill.

I was greatly impressed by the point made by the Senator from Massachusetts [Mr. SALTONSTALL], and it seems to me that in substance it is precisely the point I have referred to, namely, that when a bill has been read the second time, it does not follow, therefore, that the instant after it has been read, during the momentary drawing of breath before there is a referral, some Senator may, by means of objecting to further proceedings, cause the adoption of a course contrary to reference. It seems to me that clearly there should be afforded both to the Presiding Officer and to the Senate an opportunity, first, to determine whether the bill shall be referred. I think that is doubly true because of the provisions of paragraph 3 of rule XIV, which distinctly contemplate, not that after a bill has been read the second time it may then be placed on the calendar as a result of the action of one Senator, but, obviously, as I have indicated, that no bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee. Clearly that opportunity is not afforded if the construction urged by the Senator from Arkansas is to be applied.

With respect to section 137 of the Reorganization Act, I do not see that there is any conflict between it and rule XIV. It would appear to me that if an opportunity to have a bill referred must be afforded before the remedy which was invoked yesterday by the Senator from California may be applied, then it likewise follows that an opportunity to present a controversy in regard to a decision as to the committee to which the bill shall be referred must likewise be afforded to the Senate before the course of action taken by the Senator from California can be properly taken.

So it appears to me that the Senator from Nebraska is perfectly within his rights and that the Senate is protected by the position he takes today. Therefore, I think that under the terms of both section 3 and section 4 of rule XIV of the Senate Rules, it is clearly the intention, not that instantly after its second reading the bill can be placed on the calendar simply because one Senator makes such a request, but that at that moment there shall be an opportunity during which, to quote section 3 of rule XIV, the bill or joint resolution "may be referred to a committee."

It would appear to me, inasmuch as that inference obviously follows, that today the Senate has a right to consider whether the bill shall be referred, and that as an ancillary right, it may consider which committee shall receive the bill.

Mr. President, as I have indicated, I think the point raised by the Senator from Colorado is likewise exceedingly interesting. It had not occurred to me, and I have not given it sufficient thought to express with any finality an opinion upon it, but it would seem to me that certainly the fact that the language of the reorganization plan as applied, for illustration, to the Committee on Banking and Currency, which I think is illustrative of all, namely, "Committee on Banking and Currency, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects," at least raises a very strong point in favor of the proposition suggested by the Senator from Colorado.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. The language is precisely the same in connection with every other standing committee.

Mr. DONNELL. I assumed it was, though I had not taken the time to see.

Mr. MILLIKIN. No exceptions are carved out. It does not say "subject to an exception contained in rule XIV." The language is completely mandatory that all bills shall be referred to the committees having jurisdiction.

Mr. DONNELL. Mr. President, I would say in that regard that I am greatly impressed by that proposition, though I do not think it necessary to rely upon that in order to sustain the action taken here by the Senator from Nebraska this morning. It would appear to me, therefore, that on the ground that the rules of the Senate, rule IV, subdivisions 3 and 4, clearly contemplate an opportunity being afforded to Senators to seek reference of a bill before one Senator can block reference, and inasmuch as it logically follows from that that the opportunity to present a controversy as to which committee the reference shall be made likewise exists, the action taken this morning, the suggestion made, and the motion made by the Senator from Nebraska should be sustained, and the point of order raised by the Senator from Arkansas should be overruled.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. DONNELL. I yield.

Mr. FULBRIGHT. I accept the Senator's argument sustaining the position of the Senator from Nebraska. I was not clear how the Senator sustained the correctness of the ruling of the Chair yesterday with regard to my point of order.

Mr. DONNELL. Mr. President, with great respect to the Chair, my judgment is that the ruling was in error. I think, as does the Senator from Massachusetts, if I may answer the question, that the proper position to have been taken at that moment was to have given the Senate the right to determine whether the bill should be referred.

Mr. FULBRIGHT. I may say to the Senator from Missouri that it was because of that ruling that the point of order was made.

Mr. DONNELL. I am sorry; I could not hear the Senator.

Mr. FULBRIGHT. It was because of that ruling, which was made immediately preceding the bringing up of this matter, that the whole point arose. I think the Senator will admit it is rather difficult procedure to have two rulings so inconsistent in the course of 2 days. That is really the only reason for the argument today. It is not to try to settle

the question involved on the real merits of oleomargarine legislation.

Mr. DONNELL. Mr. President, as has been pointed out, I think the situation today is different, in fact, from what it was yesterday, because, as I understand, the motion of the Senator from Nebraska was made after the second reading.

Mr. WHERRY. That is correct.

Mr. DONNELL. But I am free to say that in my judgment—and I understand it is also the judgment of the Senator from Massachusetts, who has spoken—the proper procedure yesterday would have been not to permit one Senator to take the bill beyond the control of the Senate with respect of reference and place it upon the calendar. I think the proper procedure would have been to give to the Senate the opportunity, which is clearly contemplated, I think, by rule XIV, to itself exercise the right of determining whether a reference should be made. Today the Senator from Nebraska has presented that proposition. He has presented it along the line of a controversy as to which of two committees shall have jurisdiction over this particular bill. But what he has presented is clearly a corollary of and arises by virtue of the right of the Senate to pass upon the question as to whether the bill shall be referred.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state the inquiry.

Mr. WHERRY. The morning hour will be concluded at 2 o'clock, will it not?

The PRESIDENT pro tempore. The Senator is correct.

Mr. WHERRY. If a vote is not had between now and 2 o'clock, then the pending business would automatically be set aside, and the Science Foundation bill would be the pending business before the Senate, would it not?

The PRESIDENT pro tempore. That is true, as the Senator from Nebraska well knows.

Mr. WHERRY. Mr. President, I hope the Senate will realize that fact. If possible, I should like to have a vote between now and 2 o'clock on the motion which is before the Senate.

The PRESIDENT pro tempore. The Chair does not wish, of course, to engage in any controversy with any Senators regarding their interpretation of the RECORD in the last 24 hours, but inasmuch as there is considerable importance attaching to what the RECORD will disclose, and without intending to be controversial but merely to state the other side of the situation, the Chair would like to say he thinks there is no collision whatever between the precedent of yesterday and the precedent of today. The Chair thinks that the tidelands bill was in a totally different parliamentary situation from the oleo bill, that there was no question of reference to a committee involved, no question of controversy regarding what committee had jurisdiction, that there was nothing of the sort involved, and that therefore paragraph 137 of the Legislative Reorganization Act was not even a part of the first precedent to which Senators have referred.

Therefore the Chair, preserving his own reputation for some degree of alleged logic and consistency, respectfully states for the RECORD that he thinks the precedents do not collide.

The question before the Senate is, the point of order raised by the Senator from Arkansas, and the precise point upon which the Senate will vote is this: Is the point of order of the Senator from Arkansas well taken?

May the Chair undertake in just two sentences to indicate to Senators precisely what they are voting on, in that connection. If the point of order raised by the Senator from Arkansas is sustained, the bill (H. R. 2245) will not be referred to a committee but will go to the calendar.

If the point of order raised by the Senator from Arkansas is not sustained, the Chair will then rule upon the reference of the bill (H. R. 2245) to the committee he thinks has jurisdiction under the instructions of the Reorganization Act. That reference, if unsatisfactory to the Senate, will in turn be subject to an appeal. The pending question is, Is the point of order of the Senator from Arkansas well taken?

Mr. MAYBANK. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSSELL. Mr. President, if there is to be a record vote on this question, I feel I must make a brief statement.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. WHERRY. I realize that the Senator has a perfect right to debate this question. If a yea-and-nay vote is insisted upon, it will go beyond the hour of 2 o'clock. I wonder if the request for a yea-and-nay vote may not be withdrawn, so as to permit us to vote on this question before the hour of 2 o'clock.

Mr. MAYBANK. Mr. President——

The PRESIDENT pro tempore. The Senator from Georgia has the floor. Does he yield?

Mr. RUSSELL. I yield.

Mr. MAYBANK. Mr. President, due to the lateness of the hour, it being 10 minutes to 2, I ask unanimous consent to withdraw my request for the yeas and nays.

The PRESIDENT pro tempore. The yeas and nays have already been ordered. Is there objection to rescinding the order?

Mr. WATKINS. I object.

The PRESIDENT pro tempore. Objection is heard. The Senator from Georgia is recognized.

Mr. RUSSELL. Mr. President, every sympathy I have in connection with this question is with the distinguished Senator from Arkansas [Mr. FULBRIGHT] regarding the point of order he has made. I do not see any difference between the situation existing in this case and that obtaining in the case of the tidelands oil bill. The question of jurisdiction is inherent as to any piece of legislation coming before the Senate. It is there, whether the point be raised by a Senator or whether it be not raised. If section 137 of the Reorganization Act takes precedence over the Senate rules, there can be no question that the Senator from Arkansas will have been done an injustice with respect to the point of order he has raised simply because he was not recognized before the Senator from Nebraska.

I further sympathize with the Senator because I am strongly committed to the proposition which he seeks to espouse; namely, the repeal of taxes on oleomargarine. I shall not debate the merits of that question further at this time other than to say that I do not think such taxes can ever be justified by either reason, justice, or logic. In my mind, the overweening question before the Senate today is whether we shall establish a system whereby the jurisdiction of standing committees of the Senate can be bypassed. Under the precedent of yesterday, in the tidelands bill case, if the Chair sees fit to recognize any Senator for the purpose of interposing an objection, such jurisdiction can be taken from committees. If I happen to be upon the floor at any time in the future when an objection is lodged under rule 14, I shall respectfully appeal from the decision of the Chair, because it is manifestly unfair to have a rule that the Chair can recognize one Senator for the purpose of defeating the wishes of the Senate or for the purpose of denying a Senate committee of jurisdiction, or that the Chair can, at his option, recognize another Senator for the purpose of raising the question of jurisdiction. It should be settled. I regret very much that on yesterday we were all caught somewhat off our feet and did not give the ruling the serious consideration to which it was entitled. An appeal should have been entered to the Chair's ruling. I believe that if it had been fought out on the floor of the Senate the Members of this body could have seen the irreparable injury that would be worked on our committee system and would have established definitely the proposition that section 137 had precedence over rule 14 and that all bills should be referred to committee. I sympathize with the Senator from Arkansas. I know he has not been treated exactly fairly as a Member of the Senate when he is denied the same treatment which was accorded to the Senator from California yesterday. I shall take every step possible to have his bill dealt with fairly but I cannot by my vote, even in this situation, establish a precedent which will destroy the committee system of the United States Senate and of the Congress, because if that be done we shall have destroyed our parliamentary system. So, reluctantly and sick at heart at being compelled to do so, I shall vote against the motion of the Senator from Arkansas.

The PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I want to say that I certainly did not enter into this controversy with the idea of its having any bad effect upon the oleomargarine bill. Personally, I think the rule is a bad rule, and I so stated yesterday. I entered into the controversy today largely with a view of clarifying a point which I think the Senate now admits involves a serious danger. I think it is well

to have the Committee on Rules and Administration consider it. A vote not to sustain the point of order, in my own view, is certainly not a bad vote. I was not approaching it from that standpoint. I think the question has been clarified. It has nothing to do with the merits of the oleomargarine bill.

Mr. CORDON. Mr. President, will the Chair restate the question?

The PRESIDENT pro tempore. The question upon which the Senate will vote is this: Is the point of order of the Senator from Arkansas [Mr. FULBRIGHT] well taken? Those Senators who agree with the viewpoint of the Senator from Arkansas will vote "yea"; those who disagree will vote "nay." The clerk will call the roll.

The legislative clerk called the roll.

Mr. WHERRY. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from South Dakota [Mr. BUSHFIELD], the Senator from New Jersey [Mr. HAWKES], the Senator from Indiana [Mr. JENNER], and the Senator from West Virginia [Mr. REVERCOMB] are necessarily absent. The Senator from South Dakota [Mr. BUSHFIELD], if present and voting, would vote "nay," and the Senator from New Jersey [Mr. HAWKES], if present and voting, would vote "nay."

The Senator from New Hampshire [Mr. BRIDGES] is necessarily absent on official business.

The Senator from Indiana [Mr. CAPEHART] is absent because of illness in his family.

The Senator from Maine [Mr. WHITE] is absent because of illness.

The Senator from Vermont [Mr. FLANDERS] is absent on official business. If present and voting, the Senator from Vermont would vote "nay."

The Senator from Idaho [Mr. DWORSHAK] is unavoidably detained on official committee business.

Mr. LUCAS. I announce that the Senator from Georgia [Mr. GEORGE] and the Senator from Tennessee [Mr. STEWART] are absent because of illness in their families.

The Senator from Kentucky [Mr. BARKLEY] and the Senators from Alabama [Mr. HILL and Mr. SPARKMAN] are absent on public business.

The Senator from Louisiana [Mr. ELLENDER] is absent on official business.

The Senators from Florida [Mr. HOLLAND and Mr. PEPPER] and the Senator from Idaho [Mr. TAYLOR] are absent by leave of the Senate.

The Senator from Nevada [Mr. MCCARRAN], the Senator from Maryland [Mr. O'CONOR], the Senator from Louisiana [Mr. OVERTON], the Senator from North Carolina [Mr. UMSTEAD], and the Senator from New York [Mr. WAGNER] are necessarily absent.

The result was announced—yeas 15, nays 56, as follows:

YEAS—15

Connally	Kilgore	Murray
Fulbright	Lucas	O'Daniel
Green	McClellan	O'Mahoney
Hatch	Maybank	Thomas, Okla.
Johnston, S. C.	Moore	Tydings

NAYS—56

Aiken	Brewster	Butler
Baldwin	Brooks	Byrd
Ball	Buck	Cain
Capper	Knowland	Robertson, Wyo.
Chavez	Langer	Russell
Cooper	Lodge	Saltonstall
Cordon	McCarthy	Smith
Donnell	McFarland	Stennis
Downey	McGrath	Thomas, Utah
Eastland	McKellar	Thye
Ecton	McMahon	Tobey
Ferguson	Magnuson	Vandenberg
Gurney	Malone	Watkins
Hayden	Martin	Wherry
Hickenlooper	Millikin	Wiley
Hoey	Morse	Williams
Ives	Myers	Wilson
Johnson, Colo.	Reed	Young
Kem	Robertson, Va.	

NOT VOTING—25

Barkley	Hawkes	Sparkman
Bricker	Hill	Stewart
Bridges	Holland	Taft
Bushfield	Jenner	Taylor
Capehart	McCarran	Umstead
Dworshak	O'Conor	Wagner
Ellender	Overton	White
Flanders	Pepper	
George	Revercomb	

So the Senate refused to sustain Mr. FULBRIGHT's point of order.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, the unfinished business, the so-called National Science Foundation bill, is in order.

Mr. WHERRY. Mr. President, I ask unanimous consent that the unfinished business, Senate bill 2385, be temporarily laid aside and that the Senate proceed to the consideration of House bill 2245, the oleomargarine bill, in order that the Senate may have a ruling from the Chair on the reference of the bill.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. RUSSELL. Reserving the right to object, Mr. President, would that mean that we would follow through to a conclusion of the matter?

Mr. WHERRY. I should like to see that done, if it meets with the approval of the Senate. We might just as well go through with it.

Mr. FULBRIGHT. Mr. President, if the Senator will yield, I had hoped to have an opportunity to consult the chairman of the Committee on Finance, but he is temporarily absent from the Chamber. I thought we were to proceed with the science bill. I personally am ready to proceed, but I notice the chairman of the Committee on Finance is not in the Chamber at present. He was here a moment ago.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nebraska?

Mr. WHERRY. I hope there will be no objection. I should like to get a ruling in the RECORD, and if there is to be an appeal there will be plenty of time to debate the question, and opportunity to consult with the chairman of the Committee on Finance.

Mr. RUSSELL. I shall defer to the wishes of the Senator from Arkansas.

Mr. FULBRIGHT. I do not want delay. I am prepared to proceed.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nebraska?

Mr. BALL. Mr. President, reserving the right to object, I ask the Senator from Nebraska whether it is his intention, if a controversy shall develop over the ruling of the Chair on the reference of the bill, to proceed to dispose of that controversy immediately, or merely to get the ruling of the Chair in the RECORD, and then let it go over a day.

Mr. WHERRY. I should like very much to get a ruling from the Chair, and of course if we proceed to that point, there will be nothing to prevent an appeal being taken. I cannot guarantee that some Senator will not appeal from the ruling, but I should like at least to have a ruling. Furthermore, I must ask unanimous consent and in a unanimous-consent agreement it is not possible to make provision of the kind suggested by the Senator.

Mr. AIKEN. Mr. President, should not the Senator from Nebraska divide his request into two parts, first, to have the bill referred, and then, if an appeal is taken, would not further unanimous consent be required to permit debate on the appeal and the reaching of a decision?

The PRESIDENT pro tempore. If the unfinished business shall be temporarily laid aside to conclue the process of reference, that will be a conclusive agreement on the part of the Senate to finish that particular task this afternoon.

Mr. WHERRY. Mr. President, that is my hope. I do not wish to mislead the Senate. So long as the question has been raised, I think it would be well to conclude the discussion. That is the only good method of procedure. I should like very much to have a ruling, and if any Senator then cares to take exception to the reference, he can appeal, and we can proceed to conclude the consideration of the appeal. That is my intention.

Mr. MAYBANK. Mr. President, reserving the right to object, I had intended to ask the very question the Senator from Nebraska has answered. In other words, we should conclude consideration of the question of reference this afternoon, if possible.

Mr. WHERRY. That is correct.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nebraska?

Mr. FULBRIGHT. Reserving the right to object, I wonder if the Senator could delay his request until I have an opportunity to locate the Chairman of the Committee on Finance.

Mr. WHERRY. I hope the Senator will not object.

Mr. FULBRIGHT. I shall not object.

Mr. RUSSELL. I suggest the absence of a quorum.

The PRESIDENT pro tempore. Does the Senator from Nebraska yield for that purpose?

Mr. WHERRY. Yes; I yield. I will do anything I can at all times.

Mr. RUSSELL. I did not ask the Senator to yield for that purpose. I make the suggestion in my own right.

The PRESIDENT pro tempore. The Senator from Nebraska has the floor.

Mr. RUSSELL. I shall wait until the Senator surrenders the floor, and then suggest the absence of a quorum.

Mr. WHERRY. I yield for that purpose.

Mr. RUSSELL. Very well.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. RUSSELL. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Georgia suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hayden	Morse
Baldwin	Hickenlooper	Murray
Ball	Hoey	Myers
Brewster	Ives	O'Daniel
Brooks	Johnson, Colo.	O'Mahoney
Buck	Johnston, S. C.	Reed
Butler	Kem	Robertson, Va.
Byrd	Kilgore	Robertson, Wyo.
Cain	Knowland	Russell
Capper	Langer	Saltonstall
Chavez	Lodge	Smith
Connally	Lucas	Stennis
Cooper	McCarthy	Thomas, Okla.
Cordon	McClellan	Thomas, Utah
Donnell	McFarland	Thye
Downey	McGrath	Tobey
Dworshak	McKellar	Tydings
Eastland	McMahon	Vandenberg
Ecton	Magnuson	Watkins
Ferguson	Malone	Wherry
Fulbright	Martin	Wiley
Green	Maybank	Williams
Gurney	Millikin	Wilson
Hatch	Moore	Young

The PRESIDENT pro tempore. Seventy-two Senators having answered to their names, a quorum is present.

Is there objection to the request of the Senator from Nebraska [Mr. WHERRY]? The Chair hears none, and the Chair will proceed to rule, under the requirements of section 137 of the Reorganization Act, in respect to the reference of House bill 2245.

The Chair confronts the parliamentary duty of referring this bill to the appropriate committee under the rules. There is a strong argument to be made in favor of reference either to the Committee on Finance or to the Committee on Agriculture and Forestry. Under such circumstances, the Chair wishes to afford the Senate an opportunity, so far as possible, to decide the reference for itself. This could have been done, under the old rules, by direct submission. But the Reorganization Act provides that a question of jurisdiction "shall be decided by the Presiding Officer of the Senate, without debate in favor of that committee which has jurisdiction over the subject matter which predominates in the proposed legislation." But "such decision shall be subject to appeal."

Confronting this injunction of law, the Chair will proceed to make an initial reference in open session, without presuming, of course, to pass upon the merits of the legislation in any aspect whatever. But the Chair specifically invites an appeal without prejudice if the Senate desires a different parliamentary disposition of the measure.

The Chair's decision is moved by the following considerations:

Reference of the bill to the Finance Committee may be strongly urged on the basis of its oversimplified title, "An act to repeal the tax on oleomargarine," because the first duty assigned to the Finance Committee under the Reorganization Act is jurisdiction over revenue measures generally. On the other hand, it can, in the opinion of the Chair, be even more persuasively contended that revenue is only incidental in the purposes of this bill; and that "the subject matter which predominates"—that being the controlling phrase in the Reorganization Act—is the agricultural economy, which clearly lies within the jurisdiction of the Committee on Agriculture and Forestry.

House hearings on the bill disclose a statement by Under Secretary of the Treasury Wiggins that "revenue considerations are not involved." This is particularly significant since the Supreme Court itself has said in *Millard* v. *Roberts* (202 U. S. 429) that "revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue."

Again reference of the bill to the Finance Committee may be strongly urged on the basis of the fact that two previous Senate bills, S. 985 and S. 1907, for this same purpose have been referred in the Senate, during the present Congress, to the Finance Committee although no action has ever been taken on them in that committee. This was done on the basis of their titles in usual routine at the legislative desk when no occasion arose to examine the full text of the bills to determine the subject matter which predominates.

On the other hand, it can, in the opinion of the Chair, be even more persuasively contended that the most recent full exploration of this subject matter in the Senate was made in connection with S. 1744 in the Seventy-eighth Congress which was referred to the Committee on Agriculture and Forestry which held hearings that have been used in these current debates.

On this point, it is significant to note that when this same legislation originally came to the Senate on June 7, 1886, precisely the same sort of controversy which still reigns today was settled by a Senate vote of 22 to 21 in favor of reference to the Committee on Agriculture.

It is further significant to note that though the House Ways and Means Committee is particularly tender of its revenue prerogatives, the present bill was handled in the House by the Committee on Agriculture.

In the Senate there is a mixed record of reference over the years in respect to various types of oleo legislation. As a result, the precedents are far from clear. But it seems clear to the Chair, after a faithful examination of the entire subject, that the pending bill is not a revenue measure in the appropriate sense of that phrase as defined in the Reorganization Act; but that the subject matter which predominates—the controlling phrase in the Reorganization Act—lies preponderantly within the jurisdiction of the Committee on Agriculture and Forestry.

The Chair rules that the House bill H. R. 2245 is referred to the Committee on Agriculture and Forestry. The Chair invites an appeal, if the Senate disagrees, so that the will of the Senate may control.

Mr. FULBRIGHT. Mr. President, is the time appropriate to enter an appeal?

The PRESIDENT pro tempore. Certainly. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I had hoped that members of the Committee on Finance might have been sufficiently interested in this bill to have raised this point. I wish to take only a few minutes of the time of the Senate to invite attention to a few very interesting questions.

On December 18, 1947, 6 months ago, I introduced Senate bill 1907, which is identical with the Rivers bill, House bill 2245. My bill, without question, was referred to the Finance Committee of the Senate, which was in accordance with the practice of the Senate for many years; and I have a great many precedents which I shall cite a little later.

I believe that the files of the Senate Finance Committee will reveal a great many letters and petitions addressed to the Senate in this connection, which were referred to that committee.

Soon after the introduction of my bill in December, which, as I say, was identical with the bill we are now considering, I wrote to the chairman of the Senate Committee on Finance, the Senator from Colorado [Mr. MILLIKIN], requesting hearings. He replied as follows, under date of January 21, 1948:

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
January 21, 1948.

HON. J. W. FULBRIGHT,
Senate Office Building,
Washington, D. C.

DEAR SENATOR FULBRIGHT: Thank you very much for your letter of January 15, requesting that hearings be scheduled on S. 1907, which relates to taxes on oleomargarine.

The subject matter of the bill is directly connected with the revenues of the Federal Government and, therefore, under the Constitution such legislation must originate in the House. Since the Senate Committee on Finance is not advised as to whether the House will take action on proposed legislation of that kind, or what the action might be if it should be gone into on the House side, I doubt whether the committee would consider it as practical or desirable to start hearings on the Senate side.

With very best regards, I am,

Sincerely,

EUGENE D. MILLIKIN,
Chairman.

That happened on January 21 of this year. Of course, the Senator from Colorado had in mind article I, section 7, of the Constitution, which provides that bills for the raising of revenue shall originate in the House of Representatives. After the experience in the House Committee on Agriculture with this legislation, it seems very peculiar to me that suddenly, within the course of 2 or 3 months, this bill has changed its character to such an extent that today the subject matter which predominates is agriculture.

No one doubts that the chairman of the Committee on Finance is an expert on taxation. We recall that a few weeks ago he persuaded the Senate, largely by his own eloquence, I think, to support his position on the reduction of income taxes. He certainly knows, if anyone knows, what a tax measure is.

As the Constitution provides that the Senate may propose amendments, I offered my bill, the same bill which I had introduced as an original bill, as an amendment to the income-tax reduction bill. On March 18 of this year my amendment and that of the Senator

from South Carolina [Mr. MAYBANK] were debated on the floor of the Senate. A reading of the debate on these amendments will convince one, if he has an open mind, that they were resisted and defeated largely because they were excise tax measures, and should not be attached to the income tax bill. It will be recalled that many times it was stated that excise taxes were being considered by the House, and that our amendments were proper amendments or features to be included in that kind of a bill. Let me read a few excerpts from the debate on the floor of the Senate on the 18th of March of this year:

Mr. MILLIKIN. Mr. President, I strongly urge that the pending amendment be rejected. A series of amendments of this type came before the Senate Finance Committee. We did not go into the merits of those amendments, and I wish to emphasize that the vote on the amendment is not at all to be considered a necessary reflection of the opinion as to the merits of the amendment of those who, for example, may vote against it. This amendment and the related amendments have to do with excise and occupational taxes. That is a subject which is not directly related to the business of the bill now before us. The Senate Finance Committee necessarily had to delineate the scope of the bill which the committee wished to bring before the Senate. It was perfectly apparent that if we commenced to open up this bill in order to take care of excise taxes and other forms of taxes, we would wind up in a state of complete scatteration. There are many, many inequities in our excise-tax structure. Many of our present excise taxes cannot be justified from the standpoint of logic, or from the standpoint of the competitive situation in which the articles concerned are placed by the taxes thus imposed upon them, or from the standpoint of equity. For that reason, I believe there is sound opinion that all those taxes should be considered together and dealt with in a revision bill.

However, if we make any other approach to the subject, it seems to me clear that every Senator would have an amendment to propose; and if we allow the pending amendment to come into the bill now before us, there no longer will be any valid reason for keeping out other amendments with respect to which claims for justice can also be made.

Those are the words of the Senator from Colorado [Mr. MILLIKIN]. At no time during that debate or in the preceding consideration before the committee, when I appeared in support of the bill, did any member of that committee raise the question that this was not a proper tax bill for the consideration of that committee in any respect.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. MAYBANK. What the distinguished Senator from Arkansas has just read was in answer to a question which I propounded, as he suggested, to the distinguished Senator from Colorado on March 18.

I join with the Senator in saying that although I appeared before the committee, as he did, at no time did any member of the committee suggest that his bill or my amendment should not be considered by the Finance Committee. In 1943, and again in 1944, similar amendments to the tax bill were refrred to the Committee on Finance, and at that time extensive hearings were held. Copies of those hearings are available, as the distinguished President pro tempore of the Senate well knows, because he was a member of the Finance Committee at that time, and as other Senators well know. Former Senator Bennett Champ Clark, of Missouri, was chairman of the subcommittee which held hearings. Hearings were held in 1943 and 1944 on the repeal of the oleomargarine tax.

I thank the Senator from Arkansas for bringing this question before the Senate. Since I have been a Member of the Senate, beginning in 1941, the Senate Committee on Finance has had charge of this legislation. It seems to me that some members of that committee should join the Senator from Arkansas, as I am joining him, in asking for consideration of the bill by the Committee on Finance.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. WHERRY. I did not hear all the preliminary remarks made by the Senator from Arkansas when he took the floor. Did I correctly understand him to say that he was appealing from the ruling of the Chair? I ask this question because I should like to know whether there will be anything before the Senate if the appeal is not made. I do not wish to cut off the Senator, but I merely wish to ascertain what he proposes to do.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. FULBRIGHT. Is it necessary for me to make the appeal at this time, in order to address myself to the question?

The PRESIDENT pro tempore. The Chair thinks not, because the Chair will not conclude the process of committee reference until the Senator from Arkansas has had an opportunity to make an appeal.

Mr. FULBRIGHT. Mr. President, as a part of my next statement I should like to present other excerpts from the CONGRESSIONAL RECORD for March 18, at the point where the Senator from South Carolina asked the following specific question:

Does the Senator agree that it is a tax question?

The Senator from Colorado replied:

I agree with that.

Later in the same debate, other Senators joined in making statements very similar to that one. I wish to quote some of them:

Mr. SALTONSTALL. There are many people in Massachusetts who are very much in need of a repeal of this tax. I have expressed my sympathy with their purpose many times. I understand the distinguished Senator to say that their cause will not be helped at the present time by voting for the pending amendment. Is that correct?

Mr. MILLIKIN. That distinctly is my opinion, and that gives me the opportunity to make clear something that I intended to come to. Neither the majority nor the Senate Finance Committee is taking any position on the policy involved in the merits of the amendment. A Senator may vote to keep this amendment out of the bill, without prejudicing his position in favor of removing the taxes from oleomargarine. We are not going into the merits of that. Our position is that it has no place in the pending bill, and that if it were put in the bill, it would necessarily be dropped in conference; that it is unwise to put it in this bill, because if we opened the door to extraneous matters, we would wind up here in a state of complete scatteration, instead of getting the kind of bill we wish to get.

Mr. SALTONSTALL. The bill it is proposed to pass is strictly an income-tax bill, is it not?

Mr. MILLIKIN. That is correct.

Later, the following occurred:

Mr. CAIN. If the pending amendment is defeated, can the Senator from Colorado recommend a course of action which would result in bringing the subject of oleomargarine taxation to the floor of the Senate so that it could be thoroughly studied and explored?

Mr. MILLIKIN. I am very glad the Senator has asked that question, and I shall discuss it at once.

Mr. President, I can understand the desire of those who favor this amendment to have it added to this bill. I understand there have been some difficulties in advancing an amendment of that kind in the House of Representatives.

I wish to say that the House of Representatives Ways and Means Committee is considering a general revision bill. Not only do I understand that it is to take care of administrative provisions, but I also understand that inequities in the taxes and rates of tax at various points along the line are likewise being considered.

Of course, I am not in position to promise what will happen in the House of Representatives with respect to an amendment of this kind.

Here is a repetition on the floor of the Senate of the same sentiment:

But I believe it is clear that, under the Constitution, the House of Representatives has the initiating jurisdiction in respect to taxes; and I am thoroughly convinced that in a major matter of this kind, no matter what the Senate did in the way of amendment its action would not meet with the approval of the House of Representatives. The House cherishes—and properly so—its right to initiate tax legislation. It is true that we have a right to amend such legislation; but when we propose revolutionary amendments, particularly amendments which at the time do not meet with the sentiment of the House, we are simply wasting time.

I am quite sure that if an amendment of this kind were adopted by the Senate and were sent to conference, it would be rejected in conference, because the House does not intend that the Senate shall have the initiating power in these important matters of legislation, and especially where there is such a substantial deviation from the bill which the House of Representatives has sent to us.

Mr. President, I cannot see how we could have a more positive statement than that as to the opinion of the very able chairman of the Finance Committee in regard to the character of this bill.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I shall yield, although I should like to finish my statement. I yield for a question.

Mr. MAYBANK. I was going to ask the Senator if he had put in the RECORD today a statement in regard to the tax on uncolored oleomargarine.

Mr. FULBRIGHT. Last year the tax was approximately $7,000,000, as represented by income to the Government. It is 10 cents a pound on colored margarine,

which is approximately 25 percent of its present retail price. It is one-fourth of a cent a pound on uncolored margarine. For colored margarine there is an annual license tax of $600 on manufacturers, $480 on wholesalers, and $48 on the retailers, and there is a license tax of $600 for manufacturers of uncolored margarine, $200 for wholesalers, and $6 for retailers.

Mr. MAYBANK. So the tax on colored margarine is 10 cents a pound; is that correct?

Mr. FULBRIGHT. That is correct.

Mr. MAYBANK. If that is not a heavy tax on the poor people of the United States, then I do not know what such a tax is, because it amounts to about 10 percent or more on the poor man's income. Poor people must fill their stomachs with bread, and a family of five will consume 2 pounds of oleo a week. That means at least a $10 Federal tax, not to mention as much as $15 State and other oleo taxes which are passed on to the low-income consumer annually. I do not know of any tax now on the statute books which is more regressive. Certainly this is an important consideration in connection with this legislation and should be a concern of the Finance Committee, not the Agriculture Committee.

Mr. FULBRIGHT. I thank the Senator.

Mr. President, after the procedure in the House and the great controversy on this subject, if the bill were now referred to the Committee on Agriculture and Forestry such action would establish a precedent which in my opinion would cause great difficulty in the future.

I think reference should be made to the attempt to set a precedent yesterday. Today the Senate by overwhelming majority has refused to follow that action as a precedent. That is the way I interpret the vote which has recently been had. I think the real significance of that vote is that the Senate disapproves having that procedure regarded as a precedent for future application. If we do not follow the obviously proper procedure of referring the bill to the Finance Committee, but, instead, if the bill is referred to the Committee on Agriculture and Forestry, in view of the obviously difficult tax problems in connection with the bill and the necessity of giving certain interests an opportunity to study the bill at great length, as they have studied it at great length when the bill was before the House, I think it will be a precedent which we shall regret.

We should consider that one result of such action would be that if a bill of this sort is referred to the Committee on Agriculture and Forestry, then, I assume, if there is such a thing as consistency in the Senate, in the future any bill concerning agriculture would be subject to a tax amendment similar to the one we have been discussing, because such an amendment then would be germane to an agricultural bill. I see no way to avoid that conclusion, for I assume we would be consistent.

There is no question that the oleomargarine taxes are discriminatory, and that they affect one aspect of agricultural economy as against another. Even the proponents will admit that, though they claim in all sincerity that the discriminations are justifiable. But they also affect the consumer as tax measures. And they discriminate by means of taxes. The whole structure of the discrimination is based upon taxation—from the manufacturers, to the wholesalers, to the retailers, and to the consumers.

So, if the precedent of this referral is to stand, we should follow it to its logical conclusion. Remember that, as a revenue measure, it was referred to that committee which has jurisdiction over that constituent of our economy which it most directly affects. For that is the essence and the basis of the referral.

Thus, tobacco and liquor taxes should be under the jurisdiction of the Committee on Labor and Public Welfare, as that committee has jurisdiction over matters affecting "public health," to which those articles are related. Every one knows that the taxes on liquor, for example, are much higher percentagewise than are taxes on other articles, because there is a feeling that they have a direct bearing upon public health; so, if we were to follow the reasoning in this case as to which subject matter is predominant, a very excellent case could be made for sending matters related to liquor and tobacco taxes to the Senate Committee on Labor and Public Welfare. I think the same reasoning could be applied to gasoline taxes. Gasoline taxes, most directly affecting interstate commerce, should go to the Committee on Interstate and Foreign Commerce, or perhaps to the Committee on Public Works, which handles matters concerning roads.

Tariffs and tariff agreements should be handled by the Interstate and Foreign Commerce Committee.

Withholding taxes on wages should be handled by Labor and Public Welfare, which, under rule XXV, as amended by the Reorganization Act, should have all "measures relating to labor." Certainly with respect to such taxes the predominating subject matter is their influence on labor.

Likewise, an exemption in favor of servicemen should be under the jurisdiction of the Armed Services Committee, because, under rule XXV, the Armed Services Committee is charged with "matters relating to pay and other benefits and privileges of members of the armed services."

On the other hand, taxes on almost everything should be handled by the Committee on Banking and Currency, for, under rule XXV, all matters should be referred to it which relate to "control of prices of commodities, rents, or services."

This goes on in endless progression, until it results in complete lack of jurisdiction of the Finance Committee. For that matter, the same analogies can be made with reference to matters handled by the Appropriations Committee. For there is no tax or appropriation that does not affect an article, a profession, a class, an industry, or an element of the Nation's economy, as the margarine taxes affect agriculture, directly or indirectly.

The significance of all this, I think, is that what is intended by the organization of the Senate and its committees is that jurisdiction should be determined in the cases of taxes, appropriations, and perhaps other functions, not by the affect particular proposed legislation has upon a particular element of the economy, but, rather, the method of affecting it. And where the method chosen is by taxation, the Finance Committee should have jurisdiction.

Thus, there is nothing to prevent the Agriculture Committee, within the limits of the Constitution, from legislating, or considering legislation, dealing with the margarine and butter question, so long as it does so by general legislation and not taxation.

If price controls on meats were to be reimposed, would that question be handled by the Committee on Agriculture? It certainly affects the agricultural economy. I think it would affect it to a much greater extent than would the taxes on margarine. But what is the method of affecting it? Control of prices—which is a subject within the jurisdiction of the Committee on Banking and Currency.

The fact is that each committee has general jurisdiction over matters expressed within its title, with special jurisdictions added. But that jurisdiction extends to general measures of regulation, assistance, and so forth, only, and in any case where the method of legislation is within the purview of another committee, the latter should have and does have jurisdiction.

Mr. WHERRY. Mr. President, will the Senator yield for an announcement?

Mr. FULBRIGHT. I yield.

Mr. WHERRY. Mr. President, I inquired a few moments ago from the Senator from Arkansas whether or not an appeal is to be taken, my reason being that several Senators had asked whether it was the intention to have a calendar call. By reason of the lateness of the hour, I think it should now be announced that the calendar will not be called today. Announcement will be made later of the time at which it will be called.

Mr. McCLELLAN. Mr. President, will my colleague yield?

Mr. FULBRIGHT. I yield.

Mr. McCLELLAN. I think a decisive test on the issue as to where the bill should be referred can be made by inquiring where the bill would be required to originate. If we were now attempting to impose an initial tax, would the bill have to originate in the House of Representatives? In other words, could a bill imposing a tax on oleomargarine, under the Constitution, have originated in the Senate?

Mr. FULBRIGHT. I just read to the Senate the opinion of the chairman of the committee and his remarks on the floor. No one at that time raised the question about his statement. It was so clear that no one ever debated or questioned it.

Mr. McCLELLAN. Then if that be true, the tax provisions of the bill are bound to predominate.

Mr. FULBRIGHT. I do not think there is any question about it. I am coming now to cases showing what the Supreme Court said about the original bill. As the Senator knows, the oleomargarine tax bill originated in the

House in 1886, and later came to the Senate. Of the two cases I am about to discuss, the first one deals with the act of 1886, the second, with the act of 1902. The cases specifically dealt with the point that it was a tax measure.

Mr. McCLELLAN. I am glad the Senator is aproaching it from that viewpoint. I think that would be controlling.

Mr. FULBRIGHT. I want to reinforce the opinion of the chairman of the Committee on Finance with the opinion of the Supreme Court. These cases are referred to as the famous oleomargarine cases. I think they are directly in point. The first case is entitled "*In re Kollock, petitioner* (165 U. S. 526)." It was decided in 1897, and it involved the 1886 oleomargarine tax of one-fourth of a cent per pound. The 1902 act related to taxes imposed on manufacturers, wholesalers, and retailers, in the form of special tax on colored margarine. The second case deals with that particular law.

Kollock, the appellant, appealed on the ground that there had been an unconstitutional delegation of power, vesting in the Commissioner of Revenue the power to determine what acts should be criminal, and empowering him to provide stamps to be placed on particular articles, and to prescribe regulations for enforcement of the tax.

I desire to read a few excerpts from the Kollock case, for the benefit of Senators. I shall read first from page 536.

This is a unanimous decision. I realize that it is almost unbelievable, but at one time the Court did hand down a unanimous decision.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. FULBRIGHT. For what purpose?

Mr. BREWSTER. I thought that possibly, while the Senator was looking up his authorities, he might yield to me for a moment to make a statement regarding an insertion in the RECORD.

Mr. FULBRIGHT. How long will it take? I have my authorities here, and I prefer to put them in at this time.

The PRESIDENT pro tempore. In order to protect the Senator from Arkansas, lest a point of order be made subsequently, the Chair will say that if the Senator contemplates making a point of order he must do it consecutively with the ruling of the Chair, and that if any matter intervenes he has lost his right.

Mr. FULBRIGHT. I thank the Chair. I must decline to yield.

I read from page 536 of the Kollock case. This has reference to the original oleomargarine act. The Court said:

> The act before us is on its face an act for levying taxes, and although it may operate in so doing to prevent deception in the sale of oleomargarine as and for butter, its primary object must be assumed to be the raising of revenue. And, considered as a revenue act, the designation of the stamps, marks, and brands is merely in the discharge of an administrative function and falls within the numerous instances of regulations needful to the operation of the machinery of particular laws, authority to make which has always been recognized as within the competency of the legislative power to confer.

I continue reading from the next page, page 531:

> The oleomargarine legislation does not differ in character from this, and the object is the same in both, namely, to secure revenue by internal taxation and to prevent fraud in the collection of revenue.

I remind the Senate that in addition to its character as a tax bill or revenue bill, the object is to prevent fraud in the collection of revenue, not the alleged fraud of the substitution of oleomargarine for butter, which is often cited as one reason for the continuation of the tax, but it was to prevent fraud in the collection of such revenue.

The opinion of the Court continues as follows:

> Protection to purchasers in respect of getting the real and not a spurious article cannot be held to be the primary object in either instance, and the identification of dealer, substance, quantity, etc., by marking and branding must be regarded as means to effectuate the objects of the act in respect of revenue.

Mr. President, I cannot conceive how there could be a more direct ruling by the Supreme Court of the United States on oleomargarine legislation as to its character as a revenue measure in the sense in which we are dealing with it here.

The next case is the *McCray case* (195 U. S. 27). I should particularly like to call the two cases to the attention of the chairman of the Finance Committee, because I know he is a great constitutional lawyer and will have some respect for the opinion of the Supreme Court and its views as to the character of the legislation practically at the time the original legislation was passed and put into force.

I should like to give a little of the background by reading the statement of the case:

> The judiciary is without authority to avoid an act of Congress lawfully exerting the taxing power, even in a case where to the judicial mind it seems that Congress had, in putting such power in motion, abused its lawful authority by levying a tax which was unwise or oppressive, or the result of the enforcement of which might be to indirectly affect subjects not within the powers delegated to Congress, nor can the judiciary inquire into the motive or purpose of Congress in adopting a statute levying an excise tax within its constitutional power.
>
> While both the fifth and tenth amendments qualify, insofar as they are applicable, all the provisions of the Constitution, nothing in either of them operates to take away the grant of power to tax conferred by the Constitution upon Congress, and that power being unrestrained except as limited by the Constitution. Congress may select the objects upon which the tax shall be levied, and in exerting the power no want of new process of law can possibly result, and the judiciary cannot usurp the functions of the legislature in order to control that branch of the Government in exercising its lawful functions. * * *
>
> The Oleomargarine Act of 1886 (24 Stat. 209), as amended by the act of 1902 (32 Stat. 93), imposing a tax of one-quarter of 1 percent on oleomargarine not artificially colored any shade of yellow so as to look like butter and 10 cents a pound if so colored, levies an excise tax and is not unconstitutional as outside of the powers of Congress, or an interference with the powers reserved to the States, nor can the judiciary declare the tax void because it is too high, nor because it amounts to a destruction of the business of manufacturing oleomargarine, nor because it discriminates against oleomargarine and in favor of butter.

The facts were that the defendant had sold some oleomargarine in which there had been incorporated some color.

I read from page 29 of the statement of the case:

> From these averments it was charged that if the law imposed a tax of 10 cents upon the oleomargarine in question the statute was repugnant to the Constitution, because it deprived the defendant of his property without due process of law; because the levy of such a burden was beyond the constitutional power of Congress, since it was an unwarranted interference by Congress "with the police powers reserved to the several States and to the people of the United States by the Constitution of the United States."

In that case that very point was raised.

In the argument for the plaintiff-in-error it was said:

> The tax is so large that it is evident that it was imposed, not as an excise for revenue, but as a prohibition.

That is the point, I assume, that must be involved in the reasoning that the bill should go to the Committee on Agriculture. That point was raised by the plaintiff-in-error.

Reading from page 50, in the opinion of the court itself, it is stated:

> Did Congress in passing the acts which are assailed exert a power not conferred by the Constitution?
>
> That the acts in question on their face impose excise taxes which Congress had the power to levy is so completely established as to require only statement.

On page 51 the Court quotes from the Kollock case from which I read a moment ago, and reaffirms it. I read only a part of that and shall pass on to the original decision in this case:

> The act before us is on its face an act for levying taxes, and although it may operate in so doing to prevent deception in the sale of oleomargarine as and for butter, its primary object must be assumed to be the raising of revenue.
>
> We might rest the answer to the contention as to the want of power in Congress to enact the laws in question upon the foregoing cases. But in view of the earnestness with which the validity of the acts is assailed in argument and the assertion that the necessary effect of the amendment to the act of 1886 by the act of 1902 is to make both of the laws in question so peculiar as to cause them to be beyond the reach of the previous rulings of this Court, we propose to review and dispose of the propositions pressed upon us at bar as indubitably demonstrating that the acts in question were beyond the power of Congress to adopt.
>
> That the power of internal taxation which the Constitution confers on Congress is given to that body for the purpose of raising revenue, and that the tax on artificially colored oleomargarine is void because it is of such an onerous character as to make it manifest that the purpose of Congress in levying it was not to raise revenue but to suppress the manufacture of the taxed article.

On page 52, the Court continues:

> Whilst it is true—so the argument proceeds—that Congress in exerting the taxing

power conferred upon it may use all means appropriate to the exercise of such power, a tax which is fixed at such a high rate as to suppress the production of the article taxed, is not a legitimate means to the lawful end, and is therefore beyond the scope of the taxing power.

I read these excerpts to point out that these very questions as to the character of the tax were raised by the plaintiff in error before the Court, and it was not a matter which was ignored or was not before the Court. Those are the arguments of the plaintiff in raising the question.

Now I wish to read two paragraphs giving the Court's views, on page 59:

Undoubtedly, in determining whether a particular act is within a granted power, its scope and effect are to be considered. Applying this rule to the acts assailed, it is self-evident that on their face they levy an excise tax. That being their necessary scope and operation, it follows that the acts are within the grant of power. The argument to the contrary rests on the proposition that, although the tax be within the power, as enforcing it will destroy or restrict the manufacture of artificially colored oleomargarine, therefore, the power to levy the tax did not obtain. This, however, is but to say that the question of power depends, not upon the authority conferred by the Constitution, but upon what may be the consequence arising from the exercise of the lawful authority.

Since, as pointed out in all the decisions referred to, the taxing power conferred by the Constitution knows no limits except those expressly stated in that instrument, it must follow, if a tax be within the lawful power, the exertion of that power may not be judicially restrained because of the results to arise from its exercise.

It seems to me that the theory that the pending bill should go to the Committee on Agriculture and Forestry has reference entirely to the results which may arise from the exercise of the power of taxation, which is predominantly characteristic of this legislation.

One more statement from the court in the McCray case, on page 61:

The right of Congress to tax within its delegated power being unrestrained, except as limited by the Constitution, it was within the authority conferred on Congress to select the objects upon which an excise should be laid. It therefore follows that, in exerting its power, no want of due process of law could possibly result, because that body chose to impose an excise on artificially colored oleomargarine and not upon natural butter artificially colored. The judicial power may not usurp the functions of the legislative in order to control that branch of the Government in the performance of its lawful duties. This was aptly pointed out in the extract heretofore made from the opinion in *Treat* v. *White* (181 U. S. 264).

Mr. President, it seems to me that those two cases, directly concerning the legislation which this bill would repeal should certainly settle the question as to the characteristics of the legislation.

I wish to say a word or two about the case cited by the Chair in support of the position that the bill is not predominantly a tax measure.

The referral of H. R. 2245 to the Senate Committee on Agriculture was made, I understand, in reliance upon the decision of the Supreme Court in the case of *Millard* v. *Roberts* (202 U. S. 429), decided May 21, 1906.

This case did not, of course, decide that the oleomargarine legislation was a tax measure. The cases I have cited did that specifically. Therefore, even if this case, as a matter of general law, could not be distinguished, the oleomargarine cases would be controlling. Those cases were made upon the very question here involved:

Is the oleomargarine legislation which would be repealed tax legislation?

Millard v. *Roberts* (202 U. S. 429), decided May 21, 1906, involved these facts:

The Congress had passed three acts providing for the abolishment of dangerous grade crossings of railroads and removing railroad tracks from the Mall and for the construction of Union Station.

The Court said:

The case is practically that of a contract between the United States and the District of Columbia on the one side and the railroad companies on the other, whereby the railroad companies agree to surrender certain rights, * * * and to construct a work of great magnitude, * * * which Congress deems to be demanded for the best interests of the National Capital and by the public at large; and for this surrender of right * * * Congress agrees to pay a certain sum, partly out of the funds of the United States and partly out of the funds of the District of Columbia. It is a simple case of bargain and sale, like any other purchase.

That is what the Supreme Court said about that case, that it was simply a case of bargain and sale.

Mr. McMAHON. Mr. President——

The PRESIDING OFFICER (Mr. KNOWLAND in the chair). Does the Senator from Arkansas yield to the Senator from Connecticut?

Mr. FULBRIGHT. I yield.

Mr. McMAHON. Has the Senator examined the legislative history of these oleomargarine acts, the debates which occurred when they were first written on the statute books?

Mr. FULBRIGHT. I have here a great many instances of referrals of bills, to which I shall come in a moment.

Mr. McMAHON. My question is, When the matter was originally debated, what were the reasons given by the Members of the House and the Senate for being for this tax?

Mr. FULBRIGHT. Being for the tax on its merits, or for the referral?

Mr. McMAHON. On its merits.

Mr. FULBRIGHT. The motive was to use the taxing power to protect the butter industry.

Mr. McMAHON. I know that was the underlying motive, but what I was getting at was what constitutional basis did the sponsors lay in the debate for using the taxing power? Did they claim that oleomargarine was deleterious to health?

Mr. FULBRIGHT. In the arguments on the floor?

Mr. McMAHON. Yes.

Mr. FULBRIGHT. They did claim that. Until very recently the proponents of the legislation have so claimed. They have abandoned it lately, I would say within the last 10 years.

Mr. McMAHON. They have abanboned it because of the placing of vitamins in the product, I suppose.

Mr. FULBRIGHT. And the refinement, purity, and improvement of the product. I think that is correct.

Mr. McMAHON. Does the Senator claim that there is any limitation on the taxing power?

Mr. FULBRIGHT. I think what I read from the Kollock case and the McCray case indicates that there are limitations in the Constitution itself as to the apportionment of direct taxes. But outside of those two limitations, the power of the Congress to tax I think is practically unlimited. The Court states, by way of obiter dicta, that there might be a case so unreasonable that it might be unconstitutional.

Mr. McMAHON. They have never come up with such a case.

Mr. FULBRIGHT. I do not know of such a case, but in the case mentioned they said there might be, but that this was not one of them.

Mr. McMAHON. I may say to the Senator that some years ago I was arguing in the Supreme Court the constitutionality of a tax upon firearms. The Senator remembers the machine guns and shotguns and sawed-off shotguns.

Mr. FULBRIGHT. Yes.

Mr. McMAHON. They had to be registered and a tax paid on them. An attack was made on the constitutionality of the statute on the ground that it was an improper use of the taxing power. I well remember during the argument of the case that the late Mr. Justice McReynolds asked me the question, "Suppose Congress put a $10,000 tax upon each package of cigarettes?", and knowing the Justice's aversion to tobacco, I rather felt he might have thought it was a good thing to do, but the very absurdity of the example rather stopped me, and I stated that I believed it would be open to question. He thereupon stated that he did not think it would be. That always made an impression upon me as to at least one Supreme Court Justice's interpretation of the wide extent of the taxing power. I was curious whether in the Senator's argument he was making any point that the Congress did not have the right to put on any tax it saw fit.

Mr. FULBRIGHT. No; I hope I did not leave that impression. If the Senator did not hear the first part of my argument I shall say that I was reading the statement of the plaintiff-in-error merely to lay a foundation for the conclusion of the court, which was that the Congress did have the power. The point is that the oleomargarine legislation, the very legislation that is now sought to be repealed, was the subject of those two cases, and in both cases the Court emphasized time after time that the law was a tax measure, an excise tax measure.

The question had been raised before the Senator came in that the chairman of the Finance Committee refused to hold hearings on a bill identical to the one now being referred to the Committee on Agriculture and Forestry on the ground that it was a revenue bill and had to originate in the House. That has been the common feeling, I know, around the Senate. That is one specific example of what is contended by some, that such

a measure is a revenue bill, and must originate in the House. The two cases referred to very clearly state that the original law was a tax measure and must be considered as a tax measure, in the words of the Supreme Court which I just read into the RECORD.

Mr. McMAHON. Mr. President, will the Senator yield to me for another question?

Mr. FULBRIGHT. I yield.

Mr. McMAHON. I was detained in my office and did not hear the ruling of the President pro tempore upon the reference of this bill. Will the Senator give me, if he can briefly, the reasons the President pro tempore gave for the referral to the Committee on Agriculture and Forestry.

Mr. FULBRIGHT. I would not undertake to do it precisely, for I might do some injustice to the ruling. The President pro tempore gave it a short while ago and I have not seen it in writing. But under section 137 of the Reorganization Act, which says that the Presiding Officer shall refer bills about which there is a controversy to the committee having jurisdiction of the subject matter which predominates, the President pro tempore felt that the bill should go to the Committee on Agriculture and Forestry.

Mr. McMAHON. It is the Senator's position that what predominates in this measure is the tax?

Mr. FULBRIGHT. It is the method of dealing with the subject matter, not the effect, which predominates. I have gone over this point previously, but for the Senator's information I will say that we can take the analogies of taxes on white sulfur matches, on liquor, on tobacco, or on any agricultural product. Let us consider the various tariffs. They all affect agriculture. They were intended to affect agriculture. Matters relating to them go to the Finance Committee.

Mr. McMAHON. Does the Senator know of any precedents for the referral to the Committee on Agriculture and Forestry of any other piece of taxing legislation?

Mr. FULBRIGHT. The only precedent I know of, in a case which was an out-and-out tax bill, was the original oleomargarine bill, which was referred, after a very bitter fight, to the Committee on Agriculture and Forestry by a vote of 22 to 21. That was long before the present Reorganization Act, as the Senator knows, and the action then taken in the Senate was inspired, in my opinion, by the judgment on the merits of the bill, just as I know the same action was inspired in the House. It was the belief that the agricultural interests concerned could protect themselves better by such a referral. But subsequent to that time in the Senate practically every bill which on its face and in its title purported to be a tax bill affecting margarine went to the Finance Committee. If the Senator wishes, I can give him some examples. Here is one to which the Chair referred a moment ago which was referred to the Committee on Agriculture and Forestry in 1944. The bill was introduced by the chairman of the Committee on Agriculture and Forestry, the late Senator Smith of South Carolina. Following is the title of the bill:

A bill to provide for the more efficient utilization of the agricultural resources of the Nation during peace and war, to regulate the production and distribution—

Regulate, not tax—

to regulate the production and distribution of margarine, a product of certain agricultural commodities in interstate commerce, to remove certain obstructions to the distribution of such product in interstate commerce, and for other purposes.

That was the title of the bill. The bill was referred to the Committee on Agriculture and Forestry. On its face it appears to be just what it is, a regulatory measure. There is no question that a regulatory measure coming before the Senate which provides that no colored margarine shall be produced should go to the Committee on Agriculture and Forestry. In my opinion, that is the proper committee to which to refer such a bill. That is general legislation affecting agriculture.

Mr. McMAHON. There is a tax on railroad tickets. If an interpretation similar to that made by the President pro tempore in his ruling is made with respect to that tax, a bill dealing with it should be referred to the Committee on Interstate and Foreign Commerce, should it not?

Mr. FULBRIGHT. Certainly it should. That is the point I made.

Mr. McMAHON. There has never been any suggestion that such a thing be done, has there?

Mr. FULBRIGHT. The Senator knows that Congress had before it legislation concerning withholding taxes on members of the armed services. Certainly that was legislation which was not greatly concerned with income taxes. The Chair's theory would seem to be that if a bill would provide for the raising of a considerable amount of revenue it would be a revenue bill; that if it would raise only a little revenue it would not be a revenue bill. If the theory of the President pro tempore were to be followed legislation affecting withholding taxes on members of the armed services obviously should be referred to the Committee on Armed Services. I cannot imagine that the amount of the tax raised, that is the absolute dollars and cents amount, should be the consideration which determines whether it is a tax measure or not.

Mr. McMAHON. If that ruling or theory were to be followed it would result in destroying the integrity of the whole system.

Mr. FULBRIGHT. I agree with the Senator. I think if the Senator will examine the bills dealing with margarine he will find that wherever such a bill appeared on its face and in its title to be a regulatory measure it was referred to the Committee on Agriculture and Forestry. But practically every bill except the first, the original bill dealing with oleomargarine, was referred to the Committee on Finance whenever it purported to concern a tax of any kind on margarine. There have been many such bills. There were such bills dealing with margarine during practically all the years following the original bill. I shall give an example. The gentleman from Georgia [Mr. DAVIS] presented a petition of the Pomona Grange, of Butler, Pa., favoring legislation to regulate the composition of margarine. It was perfectly proper that such a bill should be referred to the Committee on Agriculture and Forestry, for that was a regulatory measure. That petition was presented in 1942. In 1943 Mr. Gillette presented a resolution of the National Cooperative Milk Producers' Association opposing legislation to repeal Federal commodity and license taxes on margarine. That resolution was referred to the Committee on Finance. Resolutions of various kinds, as well as bills were submitted year after year, and whenever they had to do with repeal of the tax or increase of the tax, or stated on their face that they had anything to do with a tax on margarine, they were referred to the Committee on Finance. If a bill was a regulatory one it was referred to the Committee on Agriculture and Forestry. That is the distinction the Senate has followed in the past.

Mr. President, I want to make a distinction between the case cited by the Chair, Millard against Roberts, and the cases which dealt with margarine itself. In the Millard against Roberts case the court said:

The titles of the acts are the best brief summary of their purposes.

Here are the titles of the acts—the acts referred to in the case of Millard against Roberts:

An act to provide for eliminating certain grade crossings or railroads in the District of Columbia, to require and authorize the construction of new terminals and tracks for the Baltimore & Ohio Railroad Co. in the city of Washington, and for other purposes.

An act to provide for eliminating certain grade crossings on the line of the Baltimore & Potomac Railroad Co., in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes.

An act to provide for a Union Railroad Station in the District of Columbia, and for other purposes.

Only so far as the contribution by the District of Columbia is concerned was a tax involved. A levy or assessment upon properties in the District was made to effect this contribution. The decision was summed up in this sentence:

Whatever taxes are imposed are but means to the purposes provided by the act.

Contrast this language with that of In re Kollock, which involved the very laws which this bill would repeal, and the very issue here involved, namely, whether the oleomargarine legislation is tax legislation. I quote again from In re Kollock:

The act before us is on its face an act for levying taxes, and, although it may operate in so doing to prevent deception in the sale of oleomargarine as and for butter, its primary object must be assumed to be the raising of revenue; and, considered as a revenue act, the designation of the stamps, marks, and brands is merely in the discharge of an administrative function and falls within the numerous instances of regulations needful to the operation of the machinery of particular

laws, authority to make which has always been recognized as within the competency of the legislative power to confer.

* * * * *

We concur with the Court of Appeals that this provision does not differ in principle from those of the internal-revenue laws, which direct the Commissioner of Internal Revenue to prepare suitable stamps to be used on packages of cigars, tobacco, and spirits; to change such stamps when deemed expedient; and to revise and regulate the means for affixing them.

I may say further that with regard to the act respecting the District of Columbia, under standing rule XXV of the Reorganization Act, the Committee on the District of Columbia has jurisdiction over taxes in the District of Columbia. In other words, the Congress exercises a direct police power and a special taxing power over the District of Columbia, and I cannot think of a weaker example than that case to support the theory that this bill is not a tax measure.

The Chair also made reference to the Treasury report on this bill as supporting the Chair's view about the character of the legislation. The Treasury Department says in its report on the bill:

The basic issue raised by the oleomargarine taxes is the propriety and desirability of using the tax laws to affect the relative position of competing industries, both of which use domestic agricultural raw materials.

In other words, the question is, Should the tax laws be used to discriminate between agricultural products? The question of when and under what circumstances the tax laws should be used is properly one for the committee which has jurisdiction over tax laws.

Here it should be pointed out that the Internal Revenue Bureau of the Treasury Department has sole responsibility for administration of the laws which this bill would repeal. The regulations are made by that Bureau, and they are directed solely, as the Supreme Court has held in the Kollock case, toward enforcement of the tax provisions.

The laws themselves are parts of the Internal Revenue Code.

Inasmuch as that report of the Treasury Department on the proposed legislation now before the Senate has been urged in support of the reference made, I think I should read one or two excerpts from that report, which I believe supports the view that this is predominantly a tax bill. I quote from page 2 of the report:

The basic issue raised by the oleomargarine taxes is the propriety and desirability of using the tax laws to affect the relative position of competing industries, both of which use domestic agricultural raw materials. In the case of oleomargarine the taxing power is used as a punitive measure against one industry to advance the interests of another. In the process the public is deterred from the free exercise of its consumer preferences. Without passing judgment on the relative merits of the two products from the viewpoint of the public health, it is the view of the Treasury Department that the use of the taxing power to distort the normal development of competing industries and to deprive them of the full benefit of the free-enterprise system conflicts with the public interests and, in the absence of compelling considerations, should be avoided.

I quote further:

The Department is not qualified to appraise the validity of these assertions. They illustrate, however, that the punitive use of the taxing power can result in the inefficient use of resources and support the principle that the tax system should not be used for these ends, except where the objective is clearly in the public interest.

* * * * *

The tax burden, however, reflects only part of the cost of these taxes to consumers. The existence of the oleomargarine taxes interferes with the availability of oleomargarine in certain areas and induces individuals who would otherwise buy oleomargarine to forego table fats or buy butter. Where, for example, as a result of the occupational taxes, consumers with equal preference for the two products are unable to procure 40-cent oleomargarine and are obliged to purchase 90-cent butter, the burden of these taxes approximates the difference between the selling price of these items.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. WHERRY. May I ask once again, Does the Senator intend to appeal? I wish to formulate the program for the remainder of the afternoon.

Mr. FULBRIGHT. I will say to the Senator that I am approaching the end of this discussion. I shall not be much longer.

I quote further from the report of the Treasury Department:

The legislative history of these taxes indicates that they were first enacted to assist in preventing the fraudulent sale of oleomargarine as butter. The taxing power has on several occasions been used for regulatory purposes. Taxes imposed on the production or distribution of narcotics, white sulfur matches, firearms, and national-bank notes are examples. In these cases, the taxing power supports the Government's control over certain activities in the public interest. However, in the case of oleomargarine, the need for regulation through the taxing power has been affected by several developments in recent years.

That excerpt, I may say, is so clearly on the point of whether this is a tax bill that I think it goes far to offset, and does offset, the idea that because these taxes do not produce a great deal of revenue in the aggregate, the measures, therefore, are not tax bills.

I read further from the report of the Treasury Department:

In summary, it is the Treasury Department's view that the present oleomargarine taxes distort the competitive position of two domestic industries, interfere with the optimum utilization of national resources, and unnecessarily burden consumers far in excess of the amount paid in taxes. Revenue considerations are not involved.

The last five words are relied upon by the Chair in saying that this is not a tax bill—

Revenue considerations are not involved.

This report is signed by the Secretary of the Treasury. It was presented by the Under Secretary of the Treasury when he appeared before the committee. I believe that if the last five words are read in connection with the entire report, it will be perfectly obvious that what the Secretary meant was that there was not a great deal of money involved in these taxes. The testimony had revealed that back in the 1930's the revenue amounted to $2,000,000 or $3,000,000. It has gradually grown to about $7,000,000. Although that is not an entirely immaterial or insubstantial sum, in terms of present-day finances it is not a very large sum. I am quite confident that is the only meaning which could properly be attached to that particular expression on the part of the Secretary of the Treasury. So I believe that fact meets and explains the point upon which the Chair based his ruling.

Let me give a few other references to some of the precedents in the Senate. This afternoon we have had quite a lengthy debate on the value of precedents, and I think the Senate very decisively by its vote upon the point of order decided that the precedent as of yesterday was not a correct one, and I believe that will be the way the action of the Senate will be interpreted. However, I know the Senate values consistency in its rules and in the interpretation of its rules. I wish to mention a few instances in that connection, for the benefit of the Senate, going back some years, and referring to the reference of various bills.

For example, in the Sixty-fourth Congress, first session, in 1915, a resolution of the Farmers Booster Club, of Renville, Minn., opposing the proposed repeal of the tax on coloring of oleomargarine, was referred to the Committee on Finance.

In the Sixty-fifth Congress, first session, in 1917, Senate bill 294, to reduce the tax on oleomargarine was referred to the Committee on Finance.

In the Sixty-sixth Congress, first session, Senate bill 461, to reduce the tax on oleomargarine, was referred to the Committee on Finance.

The same action was taken in the Sixty-seventh Congress and in the Sixty-eighth Congress.

Mr. President, to show the distinction between a bill which had to do with the taxing of margarine and a bill relating to the regulation of the sale of margarine, I wish to refer to the first case of that sort we come to: In the Sixty-ninth Congress, first session, the Vice President laid before the Senate a joint resolution of the Legislature of the State of Wisconsin favoring legislation to prohibit the manufacture or sale of oleomargarine in the United States. That joint resolution properly was referred to the Committee on Agriculture and Forestry because it was an outright prohibition of the manufacture or sale of oleomargarine, and it dealt directly with that subject matter. That shows the real distinction which we find running all through the various references of such measures. I hold in my hand a list showing the references of a great many measures of that sort, but I shall not take the time of the Senate to read the entire list. A number of measures were referred to the Committee on Agriculture and Forestry, but in practically every case the bills referred to that committee called for amendments of acts

defining butter and "also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine." As an example, I refer to Senate bill 5745, in the third session of the Seventy-first Congress. That was a bill to amend the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine, approved August 2, 1886, as amended." As will be seen from the title, the purpose of that bill was to amend that act. The bill did not provide for a repeal or change in the tax itself.

At another time, a bill which prohibited the interstate shipment of margarine in certain cases was introduced. That bill was referred to the Interstate Commerce Committee, where it might very well have gone, because the purpose of the bill was to prohibit the transportation of oleomargarine in interstate commerce.

But I think in no case except the first one—and in that case the decision was made, as the Chair has stated, by a very close vote of 22 to 21—has a bill similar to this one, relating to either the imposition of the tax or the repeal of the tax, as does the bill now before the Senate, been referred to any committee except the Finance Committee.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. HATCH. I noticed that the Senator from Arkansas said he had a statement giving various additional references to such measures and their reference. I do not know whether the Senator has referred to all of them, but I suggest that if he has not, at least he insert the statement in the RECORD.

Mr. FULBRIGHT. I shall be glad to insert the entire statement at the conclusion of my remarks. There are several pages of the statement, and of course I do not like to take the time of the Senate to read all of it.

Mr. President, I ask unanimous consent that the complete statement may be inserted in the RECORD at the conclusion of my statement, as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit A.)

Mr. FULBRIGHT. Mr. President, I may say to the Senator from New Mexico that I think under the former procedure the decision as to the reference of the bill was not based upon the entire bill. That point is brought out by the statement to which I have just referred. When it appeared from the title or face of the bill that it was a tax bill, the bill almost invariably was referred to the Finance Committee. When it appeared on the face of the bill that it was a regulatory bill, it was referred to the Committee on Commerce, in one case, or the Committee on Agriculture. I think that was the theory behind the reference of such bills, in all those cases.

Mr. HATCH. Mr. President, will the Senator further yield to me?

Mr. FULBRIGHT. I yield.

Mr. HATCH. My only thought in suggesting that the statement be placed in the RECORD was that undoubtedly the Senator from Arkansas has done a great deal of work on this matter, and I thought that for the sake of future reference it would be well to have the entire statement available in the RECORD.

Mr. FULBRIGHT. I thank the Senator.

Mr. AIKEN. Mr. President, will the Senator yield to me?

Mr. FULBRIGHT. I yield.

Mr. AIKEN. In regard to the statement by the Senator from Arkansas that tax bills on this subject were referred to the Finance Committee and that other bills relating to oleomargarine were referred to the Committee on Agriculture and Forestry, I wish to point out that the bills which were referred to the Committee on Agriculture and Forestry did not call for the removal of tax on oleomargarine, but simply called for removal of obstructions to the free distribution of that commodity. That was the fact in the case of the last oleomargarine bill upon which the Committee on Agriculture and Forestry held extended hearings some 3 or 4 years ago. In that case, the bill did not provide for removing the tax on oleomargarine, but simply provided for removing the obstructions to the free distribution of that commodity.

Mr. FULBRIGHT. Mr. President, may I say that I did not read the full text of all the bills, but from their face it is obvious that the decision as to their reference was based solely upon a brief reading of what the bill purported to be, particularly as shown by its title. Whenever it was obvious that the bill was a tax bill, it was referred to the Finance Committee. I think the Senator will agree that that is the case, and that in practically every case where a cursory examination of such a bill showed that it related to tax matters, the bill was referred to the Finance Committee.

One of the best examples was a bill relating to the shipment of oleomargarine in interstate commerce. That bill was referred to the Committee on Interstate Commerce. That fact further illustrates, I think, the theory applied in the reference of such bills.

Mr. President, a further point which I think the Senate should consider here as a matter of pure, practical fairness in regard to this proposed legislation is that, as everyone knows, this subject has been before the Senate, on and off, for 62 years. Everyone also knows that the Senate never has had an opportunity to vote upon such proposed legislation to repeal these taxes, on its merits, by itself.

After the vote on the amendment I offered to the tax bill, several Senators came to me and said that they felt obligated to do what they could to have the Senate pass the income-tax-reduction bill, the so-called Knutson bill, by itself, and that they felt obligated to oppose any controversial amendments which might jeopardize the final passage of that bill. But several of those Senators said, "We are in favor of the repeal of these oleomargarine taxes, on the merits of the matter, and we shall support a bill which does that."

Today, after the unprecedented action of the House of Representatives in taking the proposed legislation, by petition, from the Committee on Agriculture, and passing it by a vote of nearly 3 to 1, with the result that now the proposed legislation comes to the Senate, we find that the same officials of the Senate, after having referred an identical bill to the Finance Committee in December, now decide that the bill presently under consideration must be referred to the Committee on Agriculture and Foresty. Mr. President, that fact in itself raises a question as to the reason for such action. If they are interested in the bill on its merits and in an objective way, why was not the question raised in December in connection with the reference of the other bill? That is the question which bothers so many of us who are solely interested in presenting the bill to the Senate for a vote—a vote on the merits of this issue alone.

It seems to me that after all that has been gone through and after all the trouble that has been taken by the proponents and, no doubt, also by the opponents, it would be a very sorry and sad thing for this measure to be buried in a committee. Of course, I do not say that I believe the Committee on Agriculture and Forestry will not proceed to consider the bill on its merits, but I call attention to the fact that an identical bill already has been the subject of hearings before the Finance Committee. I appeared before the Finance Committee in support of the bill I introduced, which is the same as the Rivers bill which now is before the Senate. The Senator from South Carolina [Mr. MAYBANK] also appeared before the committee, not only this year but in 1944 when he had an amendment very similar to this measure. In other words, during the past several years, and in modern days, let us say, in connection with the matter of taxes, the Finance Committee has considered this proposed legislation.

I may say that the Committee on Agriculture and Forestry is now deeply engaged in the consideration of the long-term agricultural program; and after consultation with some of the members of that committee, I am informed by them that they could not proceed to hold hearings on this proposed legislation this week. They say they might get to it next week.

Mr. President, when we consider how close we are now to the end of the present session of Congress, and in view of the fact that the leadership of the House, I know—and I believe this is also true of the leadership of the Senate—has said they hope to have the Congress adjourn by the 18th of June, and in view of the further fact that we know that practically all the major appropriation bills are yet to be acted upon or are just now beginning to come before the Senate, obviously it may well happen that if this proposed legislation is sent to a committee which already is burdened with the consideration of other important legislation and is not familiar with the recent hearings on this subject which have been held by another Senate committee, the result may be that there will be a fatal delay in the consideration of the bill by that committee.

I therefore submit that today there is no excuse for shifting the reference of

this measure to the Committee on Agriculture and Forestry and to deprive the Committee on Finance of the jurisdiction which it so long has exercised. Incidentally, I believe it can be correctly stated that the Finance Committee at the present time has practically no important legislation pending before it. If it has, I am not aware of it. I know one member of the committee told me yesterday he knew of no important tax legislation now pending. It would therefore be logical and reasonable to assume that this bill could be considered by the Committee on Finance and reported in time to be acted on at the present session. If the bill is not acted upon, if it should in accordance with the ruling of the President pro tempore go to the Agriculture and Forestry Committee and should not be acted upon, it seems that the Senate and the committee in so voting will have taken the responsibility of denying the right of the Senate to have an opportunity of voting on this legislation. The legislation has been, it may be said, pending on and off for 62 years. This is the first opportunity in all that time we have had of voting upon it. That is assuming the committee will report it to the Senate.

EXHIBIT A

OLEOMARGARINE TAXES

1947

S. 985 (Mr. JOHNSTON of South Carolina). A bill to repeal the tax on oleomargarine. Referred to Committee on Finance.

S. 1907 (Mr. FULBRIGHT). A bill repealing certain provisions of the Internal Revenue Code relating to the tax on oleomargarine, and for other purposes. Referred to Committee on Finance.

1946 AND 1945

None.

1944

S. 1744 (Mr. Smith of South Carolina). A bill to provide for the more efficient utilization of the agricultural resources of the Nation during peace and war; to regulate the production and distribution of margarine; a product of certain agricultural commodities, in interstate commerce; to remove certain obstruction to the distribution of such product in interstate commerce; and for other purposes. Referred to Committee on Agriculture and Forestry.

1943

S. 1426 (Mr. MAYBANK). A bill to provide that certain taxes imposed with respect to the sale or manufacture of oleomargarine which is yellow in color shall be suspended until the expiration of 6 months after the termination of hostilities in the present war. Referred to Committee on Finance.

Mr. BUSHFIELD presented a resolution of the South Dakota State Dairy Association opposing H. R. 2400, relating to taxes on oleomargarine and license taxes on manufacturers. Referred to Committee on Agriculture and Forestry.

Mr. Gillette presented a resolution of the National Cooperative Milk Producers Association, opposing legislation to repeal Federal commodity and license taxes on oleomargarine. Referred to Committee on Finance.

Mr. CAPPER presented a similar resolution. Referred to Committee on Finance.

1942

Mr. Davis presented a petition of Pomona Grange of Butler, Pa., favoring legislation to regulate the composition of oleomargarine. Referred to Committee on Agriculture and Forestry.

1941

S. 1921 (Mr. Gillette). A bill to promote and protect the public welfare by prohibiting the shipment and sale in interstate and foreign commerce of oleomargarine containing any milk or its products, or which is yellow in color, or which is in semblance or imitation of butter as to color, flavor, or appearance; to regulate the advertising of oleomargarine; to provide for the enforcement of this act; to provide penalties, and for other purposes. Referred to Committee on Agriculture and Forestry.

1940

Resolution of the National Cotton Council of America remonstrating against the penalties imposed on the use of margarine. Referred to the Committee on Finance.

1939 AND 1938

None.

1937

Mr. Duffy presented a joint resolution of the legislature of the State of Wisconsin opposing the passage of House bill 3905, relating to the sale of oleomargarine. Referred to the Committee on Agriculture and Forestry.

1936

Resolutions adopted by milk producers' locals of New England opposing interstate shipments of oleomargarine, favoring the retention of duties on foreign vegetable oils for domestic purposes, and an additional tax on oleomargarine. Referred to Committee on Finance.

Resolutions of New York branch of Dairymen's League Cooperative Association, asking for a tax of 5 cents per pound on fats used in producing oleomargarine. Referred to Committee on Finance.

1935

Mr. La Follette presented a joint resolution of the Legislature of the State of Wisconsin favoring an increase in the tariff on foreign fats and oils used in the manufacture of oleomargarine. Referred to Committee on Finance.

1934

The Vice President laid before the Senate a resolution of the St. Lawrenceburg (N. Y.) Pomona Grange favoring the passage of H. R. 6612, relative to the manufacture and sale of products manufactured for butter substitutes. Referred to Committee on Agriculture and Forestry.

S. 3203. (Mr. Smith of South Carolina (by request)). A bill to amend an act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended, and for other purposes. Referred to Committee on Agriculture and Forestry.

1933

None.

1932 AND 1931 (72D CONG., 1ST SESS.)

S. 2846 (Mr. Dill). A bill to prohibit the interstate shipment of oleomargarine in certain cases. Referred to Committee on Interstate Commerce.

S. 2950 (Mr. Hébert). A bill to authorize the packing of oleomargarine and adulterated butter in tin and other suitable packages. Referred to Committee on Agriculture and Forestry.

S. 4065 (Mr. Hébert). A bill of the same title as S. 2950. Referred to Committee on Agriculture and Forestry.

(NOTE.—This bill became a law.)

SEVENTY-FIRST CONGRESS, THIRD SESSION (DECEMBER 1929–MARCH 3, 1931)

S. 5745 (Mr. Townsend of Michigan). A bill to amend the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, exportation of oleomargarine," approved August 2, 1886, as amended. Referred to Committee on Agriculture and Forestry.

(The above bill was reported from the committee, and H. R. 16836, a bill of an identical title, was subsequently passed. S. 5745 was postponed indefinitely.) H. R. 16836 became a law.

S. 5750 (Mr. Howell of Nebraska). A bill of the same title as the two preceding bills. Referred to the Committee on Agriculture and Forestry.

(Did not get out of committee.)

(Several petitions in favor of above legislation were referred to Committee on Agriculture and Forestry.)

SEVENTY-FIRST CONGRESS, SECOND SESSION (1929 AND 1930)

S. 3838 (Mr. Hébert). A bill of the same title as the foregoing. Referred to the Committee on Agriculture and Forestry.

H. R. 6. A bill to amend the definition of oleomargarine contained in the act defining butter, etc., approved August 2, 1886, as amended. Referred to the Committee on Agriculture and Forestry.

(This bill passed the Senate by a vote of 44 to 32 and became a law.)

SEVENTY-FIRST CONGRESS, FIRST SESSION (1929)

S. 560 (Mr. Schall). A bill of the same title as H. R. 6. Referred to the Committee on Agriculture and Forestry.

(Not reported.)

S. 1552 (Mr. Norbeck). A bill of the same title as S. 560. Referred to the Committee on Agriculture and Forestry.

A resolution of a local grange in the State of Connecticut remonstrating against any change in the oleomargarine laws. Referred to the Committee on Agriculture and Forestry.

SEVENTIETH CONGRESS, SECOND SESSION (1928–29)

None.

SEVENTIETH CONGRESS, FIRST SESSION (1928)

S. 3737 (Mr. TYDINGS). A bill to amend the definition of the words "manufacture of oleomargarine" and to amend the limitation upon oleomargarine taxable at one-fourth of 1 cent per pound in the act entitled "An act defining butter, etc.," approved August 2, 1886, as amended. Referred to Committee on Agriculture and Forestry.

SIXTY-NINTH CONGRESS, SECOND SESSION (1927)

None.

SIXTY-NINTH CONGRESS, FIRST SESSION (1925–26)

The Vice President laid before the Senate a joint resolution of the legislature of the State of Wisconsin favoring legislation to prohibit the manufacture or sale of oleomargarine in the United States. Referred to Committee on Agriculture and Forestry.

SIXTY-EIGHTH CONGRESS, SECOND SESSION (1924–25)

None.

SIXTY-EIGHTH CONGRESS, FIRST SESSION (1923–24)

S. 392 (Mr. MCKELLAR). A bill to reduce the tax on oleomargarine. Referred to the Committee on Finance.

SIXTY-SEVENTH CONGRESS, SECOND, THIRD, AND FOURTH SESSIONS

None.

SIXTY-SEVENTH CONGRESS, FIRST SESSION (1921)

S. 329. (Mr. MCKELLAR). A bill to reduce the tax on oleomargarine. Referred to the Committee on Finance.

SIXTY-SIXTH CONGRESS, SECOND AND THIRD SESSIONS

None.

SIXTY-SIXTH CONGRESS, FIRST SESSION (1919)

S. 461 (Mr. MCKELLAR). A bill to reduce the tax on oleomargarine. Referred to Committee on Finance.

SIXTY-FIFTH CONGRESS, SECOND SESSION (1918)

None.

SIXTY-FIFTH CONGRESS, FIRST SESSION (1917)

S. 294 (Mr. McKELLAR). A bill to reduce the tax on oleomargarine. Referred to Committee on Finance.

SIXTY-FOURTH CONGRESS, SECOND SESSION

None.

SIXTY-FOURTH CONGRESS, FIRST SESSION (1915)

A resolution of the Farmers Booster Club, of Renville, Minn., opposing the proposed repeal of the tax on coloring of oleomargarine. Referred to Committee on Finance.

Mr. President, I wish to propound a parliamentary inquiry in regard to this bill. As I understand, the Chair referred it to the Committee on Agriculture and Forestry.

The PRESIDING OFFICER (Mr. YOUNG in the chair). That is correct. The bill was so referred.

Mr. FULBRIGHT. I have indicated I might appeal from the decision of the Chair. May I inquire what would be the effect of my doing that? Could a vote be had immediately upon the decision, or might it be expected that it would result in further parliamentary entanglement similar to that which was encountered today as the result of the question raised yesterday? In other words, I should like the Chair to state what would be the parliamentary situation if I were to appeal from the decision of the Chair.

The PRESIDING OFFICER. The appeal, if made, would be debatable.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. WHERRY. Of course, the appeal would be open to debate, and if the Senator desires, the debate could be continued. If that is the desire of the Senator, it would be perfectly agreeable to me. Otherwise, I should ask for the regular order, in the hope of accomplishing the very thing the Senator has been talking about—the expediting of the program, so we can go on with other legislation and get it out of the way. But if the Senator is going to appeal, it means we shall debate this question until it comes to a vote. That would be perfectly within the rights and prerogatives of the Senator.

Mr. FULBRIGHT. Does the Senator feel that we may get to a vote?

Mr. WHERRY. Oh, yes. As indicated earlier when I made a request for unanimous consent, my hope is that we may be able to terminate this matter definitely one way or another.

Mr. FULBRIGHT. Mr. President, I appeal, then, from the ruling of the Chair, and I request that the bill be referred to the Committee on Finance.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

NEED OF MANPOWER IN THE ARMED SERVICES

Mr. BREWSTER. Mr. President, I shall not engage in a discussion of the issue before the Senate. I have been waiting for some time to obtain permission to insert in the RECORD figures which I feel would be of extreme value in connection with a matter which we must very shortly consider. That is the question of manpower in the armed services.

In the last few weeks the country has been treated to a somewhat tragic spectacle in the confusion prevailing in administration proposals concerning manpower required for the National Defense Establishment.

In congressional committees and in press statements we have heard the most confusing figures concerning the number of men needed in the armed forces. Accompanied by widely varying presumptions and suppositions these different sets of figures range from manpower strength of 1,385,216 to 2,006,000. In some cases, the estimates were changed from day to day, and the figures also differed according to who was the spokesman for the armed forces at the particular time.

Congress and the country has been carried into hopeless confusion on what kind of defense we need, on what manpower we now have and the manpower we still need, and whether we must get the needed manpower by draft, by UMT, or in some other way.

The main difficulty in all these confusing figures is the lack of standards showing how many men are needed.

Too much elasticity is allowed to the military estimators. What determines whether the army should have 5,000 or 20,000, or 50,000 soldiers in Japan, or in Germany, or Trieste, or in Austria? What determines how many soldiers are needed to service an air base, if 200, 500, or 1,000 planes are to be based there? What determines how many men are needed to maintain the defense of the continental homeland? What determines whether we should have more or less air forces and mechanized units or more or less foot soldiers?

In short, military manpower is an instrument to achieve certain ends. It should be calculated scientifically with some reasonable relation to what the men are expected to do in national defense and in foreign policy. It should not be done in guesswork off the cuff.

Nowhere has the Military Establishment set forth the standards which determine the number of men needed. They apparently prefer to leave this to their own elastic guesswork.

In order to aid the Senate get a better perspective of this military manpower, I have caused a survey to be made of all the different guesses made since the President raised the subject in his St. Patrick's Day address. The survey covers only official testimony and authentic press statements of officials.

It shows two things clearly: The defense establishment has not yet achieved real unification; and the men charged with the defense of the country have presented no clear conception of the nature and needs of future warfare.

If we had unification and a clear sense of the strategy of future warfare, we should not be floundering around with these diverse estimates of what the armed services need. Senators will certainly find these different estimates very interesting, and I hope the figures will be examined with the care and attention they deserve.

I now ask unanimous consent that these figures, compiled from official statements by the various committees in recent days, may be included in the RECORD at the conclusion of my remarks, for the information of the Senate and of the country.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

I. Authorized military strength [1]

Army	[2] 669,000
Air Force	[2] 401,000
Total	[3] 1,070,000
Navy	[4] 557,000
Marine Corps	[4] 107,200
Total	664,200
Total	1,734,200

[1] "The authorized strength of all branches of the military service are regulated by Congress, and presumably so regulated to the size necessary to take care of the duties that Congress gives to the military forces." (Senator CHAN GURNEY, Apr. 2, 1948.) "The authorized strength is a figure assigned by Congress really as a ceiling." (Secretary of Defense James Forrestal, Mar. 18, 1948.)

[2] These figures represent a division on basis of Executive order and administrative agreement between Army and Air Force. Secretary Royall on Mar. 18 stated: "There is some question as to whether the 669,000 is a ceiling or an authorization." (Hearings, Universal Military Training, Senate Armed Services Committee, p. 39.)

[3] War Department Circular 119, dated Apr. 24, 1946. An amendment to the Selective Service Act of 1940 stated the combined strength of Army and Air Force was not "to exceed 1,070,000 men as of July 1, 1947." This ceiling figure expired with the Selective Service Act.

[4] Public Law 347, 79th Cong.

II. Military strength recommended by President Truman in budget messages

	Fiscal year 1948 [1]	Fiscal year 1949 [2]
Army	1,070,000	560,000
Air Force		362,290
Navy	571,000	417,589
Marines		83,548
Total	1,641,000	1,423,427

[1] Message dated Jan. 3, 1947.
[2] Message dated Jan. 6, 1948.

III. Military strength based on appropriations, fiscal year 1948 [1]

	Average man-year strength [2]	Average man-year strength
Army	665,037	[3] 583,205
Air Force	[4] 391,549	[3] 338,355
Navy	439,180	(439,180)
Marine	87,019	(87,019)
Total	1,582,785	1,447,750

[1] Army Department Statistical Division (Mr. Bonis).
[2] Military strength during any fiscal year is dependent upon actual appropriations by Congress.
[3] After rescission of budget fiscal year 1948; first deficiency appropriation bill, H. R. 6055.
[4] Personnel to provide 40 groups fully activated at peacetime strength and 15 skeletonized groups (Senate, UMT, p. 393).

IV. Actual current military strength [1]

Army	542,000
Air Force	364,450
Navy	397,107
Marines	81,659
Total	1,385,216

[1] Hearings, UMT, Senate Armed Services Committee, Mar. 18, 25, 1948, pp. 353, 362, 381.

V. Military strength proposed by Secretary of Defense Mar. 25, 1948

Army	782,000
Air Force	[1] 400,000
Navy	460,000
Marines	92,000
Total	1,734,000

[1] Personnel necessary to provide 55 air groups fully activated at peacetime strength. Six of 55 are to be "special striking groups" having 50 percent additional planes and with 2 crews for each plane. Estimated cost of increase: $3,000,000,000.

VI. Military strength recommended by Joint Chiefs of Staff, Apr. 14, 1948 [1]

Army	837,000
Air Force	502,000
Navy, Marines	668,000
Total	2,007,000

[1] Premises a "balanced" force in line with 70 air groups. Based "solely on military considerations." $9,000,000,000 cost.

VII. Military strength proposed by General Bradley, Apr. 15, 1948

Army	[1] 822,000
Do	[2] 15,000
Do	[3] 95,000
Total	932,000

[1] Provides 12 divisions. "Barest minimum for security."

[2] Additional if Air Force is expanded to 70 groups.

[3] Additional if UMT is passed.

VIII. Military strength recommended by Secretary of Defense for a 66-group Air Force, Apr. 21, 1948 [1]

Army	790,000
Air Force	453,000
Navy, marines	552,000
Total	[2] 1,795,000

[1] Recommendation approved by President Truman and Joint Chiefs of Staff. Cost—$3,481,000,000. Based on impact of preparedness program on economy.

[2] New York Times, Apr. 22, 1948.

IX. Military strength proposed in revised H. R. 6274, selective-service bill, Apr. 21, 1948

Army	837,000
Air Force	[1] 502,000
Navy	556,000
Marines	111,000
Total	2,006,000

[1] Based on a 70-group air force.

X. Military strength proposed by Secretary Royall in Senate Armed Services draft-UMT plan, Apr. 27, 1948

(Draft: 161,000 (18–19 age group), 1 year UMT; 190,000 (19-25 age group), 2-year service to bring Army up to par.)

UMT draftees distribution:

Army	110,000
Air Force	15,000
Navy	30,000
Marines	6,000
Total	161,000

Army, 790,000 + 110,000 [1]	900,000
Air Force, 453,000 + 15,000 [1]	468,000
Navy, Marine Corps, 522,000 + 36,000 [1]	588,000
Total	1,956,000

[1] See table VIII.

LEAVE OF ABSENCE

Mr. BREWSTER. Mr. President, I ask unanimous consent that I may be absent for the next 3 days, in connection with attending the funeral services of a very old friend.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the President pro tempore:

S. 1004. An act to amend the Atomic Energy Act of 1946 so as to grant specific authority to the Senate members of the Joint Committee on Atomic Energy to require investigations by the Federal Bureau of Investigation of the character, associations, and loyalty of persons nominated for appointment, by and with the advice and consent of the Senate, to offices established by such act;

S. 1132. An act to amend section 40 of the Shipping Act, 1916 (39 Stat. 728), as amended;

S. 1298. An act to validate payments heretofore made by disbursing officers of the United States Government covering cost of shipment of household effects of civilian employees, and for other purposes;

S. 1545. An act to authorize a bridge, roads and approaches, supports and bents, or other structures, across, over, or upon lands of the United States within the limits of the Colonial National Historical Park at or near Yorktown, Va.;

S. 1611. An act to extend the time for completing the construction of a bridge across the Mississippi River at or near Sauk Rapids, Minn.;

S. 1985. An act to amend the act entitled "Boulder Canyon Project Adjustment Act," approved July 19, 1940; and

S. J. Res. 198. Joint resolution to authorize the Postmaster General to withhold the awarding of star-route contracts for a period of 60 days.

EXPENDITURE OF INCOME FROM FEDERAL PRISON INDUSTRIES, INC., FOR TRAINING OF FEDERAL PRISONERS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1648) to authorize the expenditure of income from Federal Prison Industries, Inc., for training of Federal prisoners, which was, in line 12, after "schooling" to insert "within the limits of amounts specifically authorized annually in the Government Corporations Appropriations Act."

Mr. AIKEN. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

AMENDMENT OF SURPLUS PROPERTY ACT OF 1944

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. 2239) to amend section 13 (a) of the Surplus Property Act of 1944, as amended, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. AIKEN. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. FERGUSON, Mr. THYE, and Mr. MCCLELLAN conferees on the part of the Senate.

NOTICE OF PUBLIC HEARINGS ON AMENDMENTS TO LABOR-MANAGEMENT RELATIONS ACT

Mr. BALL. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement which I issued as chairman of the Joint Committee on Labor-Management Relations announcing that that committee will hold public hearings, beginning on May 24, on various proposed specific amendments to the Labor-Management Relations Act of 1947. The statement indicates some specific questions on which the committee invites testimony.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JOSEPH H. BALL, REPUBLICAN, OF MINNESOTA, CHAIRMAN OF THE JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS

The Joint Committee on Labor-Management Relations will hold public hearings, beginning May 24, on proposed specific amendments to the Labor-Management Relations Act of 1947 and on problems which have arisen under it.

The committee especially invites testimony directed toward the following five points:

1. The provisions requiring an authorization election before a union shop contract. The NLRB is flooded with petitions for such elections and the great majority held so far have been won by large majorities, while in some industries like construction, where employment is intermittent, holding the elections presents serious administrative problems. Should the law be amended, in the interest of more efficient administration, either to prohibit all forms of compulsory membership in unions, or to eliminate the authorization by election requirement while retaining the other restrictions?

2. What steps can be taken to speed up the handling of both representation and unfair practice cases to final decisions? Do the NLRB's interpretation of the non-Communist affidavit provisions, its refusal to apply the free-speech amendment to representation cases, and its failure to speed up its own procedures, indicate a trend which make it advisable to transfer enforcement to the Federal courts directly, or to some new labor courts?

3. How should the law's provisions regarding industry-wide bargaining and stoppages be strengthened to meet, for instance, the current threat of a railroad strike, or the situation if the present 80-day injunction period fails to bring about a settlement in a basic industry like coal or steel? Possible approaches to the fundamental problem, which is the concentration of economic power that industry-wide bargaining inevitably develops, are strict regulations, such as compulsory arbitration or seizure in the public interest, or applying the antitrust law principle of breaking up the concentration of power on both sides of the bargaining table.

4. What is a sound, permanent solution to the problem of union welfare funds? The NLRB recently ruled that employers must bargain on welfare funds, and some unions have prevailed on employers to make initial contributions to welfare funds in existence prior to January 1, 1946, thereby avoiding the restrictions of the Taft-Hartley Act, while there is grave doubt as to the actuarial soundness of some such funds. Is a jointly administered welfare fund desirable or workable, particularly where a large employer may deal with a dozen or more different unions? The committee invites testimony on these and similar points pertaining to welfare funds.

5. There have been recently some strikes and numerous threats of strikes aimed at forcing employers to agree to contracts either violating the law or evading it. Should such strikes or threats of strikes be made unlawful?

Witnesses desiring to testify should write to either Senator BALL, chairman, or Representative FRED HARTLEY, vice chairman, of the committee, indicating specifically the nature of their proposed testimony. The committee is not interested in broad, general statements either for or against the Taft-Hartley Act, but rather in specific suggestions, preferably related to factual experience, for its improvement.

SUPPLEMENTAL STATEMENT BY LEO GOODMAN IN OPPOSITION TO CONFIRMATION OF NOMINATION OF T. E. WOODS

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the RECORD the supplemental statement of Leo Goodman in opposition to the confirmation of the nomination of Mr. T. E. Woods to be the Housing Expediter.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SUPPLEMENTAL STATEMENT BY LEO GOODMAN APPEARING IN BEHALF OF WALTER P. REUTHER, CHAIRMAN OF CIO HOUSING COMMITTEE, BEFORE THE SENATE COMMITTEE ON BANKING AND CURRENCY COMPLETING HIS TESTIMONY OF APRIL 21 IN OPPOSITION TO THE CONFIRMATION OF NOMINATION OF T. E. WOODS, OF WASHINGTON, D. C., TO BE THE HOUSING EXPEDITER

CONGRESS OF INDUSTRIAL ORGANIZATIONS,
NATIONAL HOUSING COMMITTEE,
Washington, D. C., April 26, 1948.

Hon. CHARLES W. TOBEY,
Chairman, Senate Banking and Currency Committee, Senate Office Building, Washington, D. C.

DEAR SENATOR TOBEY: Under permission to supplement my remarks, I hereby submit the following additional information for the benefit of the committee. I wish to list the following reasons why Mr. Woods should not be confirmed:

1. Mr. Woods' interpretation of the provision of Housing and Rent Act regarding local advisory boards constitutes malfeasance of office.

2. Mr. Woods decontrolled maximum rents in Bremerton, Wash., on April 7, 1948, even though the evidence available to him indicated that the need for rental housing had not been reasonably met as required by the act.

3. Mr. Woods, in an effort to gain support for confirmation to the position of Housing Expediter officially initiated a policy on the continuance of rent control which is not supported by the act and which will result in weakening the rent-control program.

4. Mr. Woods, in an effort to obtain confirmation support discharged able and effective key personnel in the program.

5. Mr. Woods made drastic changes in the rent regulations which were not required by the new law and which will result in widespread confusion and hardship on both landlords and tenants.

I shall discuss each of these points in turn.

1. I charge that the position of Mr. Tighe Woods regarding the recommendations made by local advisory boards under the Housing and Rent Act of 1948 that the present conditions constitute malfeasance.

The 1948 rent-control law provides that recommendations of local advisory boards are binding on the Housing Expediter if "approximately substantiated and in accordance with applicable law and regulations." But the 1948 act, as distinguished from the 1947 law, sets forth several specific conditions which must be met in order for recommendations to be "appropriately substantiated and in accordance with applicable law and regulations." These requirements include public hearings after due notice at which evidence may be presented by interested parties. The new law further provides in section 204 (e) (4) for review by the emergency court of appeals of all recommendations which are turned down by the Housing Expediter.

In spite of the clear mandate of the act as to the conditions necessary for recommendations to be "appropriately substantiated and in accordance with applicable law and regulations," Mr. Woods, on April 5, stated in a press release that he was advising local boards that they could ignore the statutory requirements as to public hearings after due notice, and the making of a public record. He stated also that if the local boards did not follow the requirements of the act as to public hearings they could not obtain a review in the emergency court if he rejected the recommendations.

This statement of April 5 represented a departure from his public statement of April 1, in which he outlined the steps to be taken by local boards in order to comply with the law.

Mr. Woods' new notions of the law which he expounded on April 5 apparently stemmed from one of the questions put to him by the chairman of Subcommittee on Rent. I respectfully submit that this theory of alternate procedures for local boards is flatly contrary to the letter and the spirit of the Housing and Rent Act of 1948.

I understand that it is defended on the ground that other sections of the act authorize and direct the Housing Expediter to decontrol rent areas and to make general rent increases on his own initiative, and that he may therefore rely on recommendations of local boards even though the boards do not follow the procedural requirements of the act. The act clearly provides that he may decontrol or raise rents generally on his own initiative. But I submit that he cannot lean on or, so to speak, hide behind local board recommendations to support him unless the local boards comply with the procedural requirements of the act in every detail. One of the salutary provisions of the new act was that such drastic action as decontrol or across-the-board rent hikes would receive a public airing at the local level.

2. On April 7, 1948, Mr. Woods decontrolled maximum rents in Bremerton, Wash., over the objection of the local advisory board for Bremerton and to the consternation of the community at large. Mr. Woods' action was not supported by the evidence available to him. (See appendix A attached for a summary of the evidence and for the sequence of events leading up to this shocking action of Mr. Woods in decontrolling Bremerton.)

3. Mr. Woods, in order to obtain support for his confirmation to the office of Housing Expediter, initiated an official policy which is not supported by the Housing and Rent Act of 1947 as amended and which will result in weakening the rent-control program. This policy is to reject recommendations for the continuation of rent controls if they are not "appropriately substantiated." While this policy appears on its face to be reasonable, an examination of its application shows that it is absurd and can lead to bad results. While everyone will agree that it is better for any recommendation to be supported by factual data this particular type of recommendation is not covered by the Housing and Rent Act. Mr. Woods, prior to the hearings before this committee on the rent-control legislation, communicated with all of the local advisory boards, throughout the country and requested that they submit to him their recommendation concerning the need for the continuance of rent control after the expiration of the 1947 law on February 29, 1948. He made it clear that these recommendations were to be presented to Congress for its information. In response to his request concerning such recommendations 358 local boards out of a total of more than 600 stated that rent control should be continued. Such recommendations in many cases were not supported by elaborate findings or factual data. These recommendations or expressions of opinion, to use Mr. Woods' term for them, were presented to the subcommittee on rent for whatever assistance they might give the Congress. The act makes no reference to this type of recommendation and such recommendations are not binding on the Housing Expediter. The basic theory of the Housing and Rent Act is that rent controls are to be continued in the various rent-control areas until the termination of the act on March 31, 1949, unless a local advisory board makes a binding recommendation to the Housing Expediter that an area be decontrolled. To be binding, such recommendations must be appropriately substantiated and in accordance with applicable law and regulations.

During the course of the hearings, however, Mr. Woods changed his official position in regard to recommendations that rent controls be continued and accepted the patently false premise that he will reject such recommendations when they are not appropriately substantiated. At several points in the hearings on rent control Mr. Woods referred to such recommendations as being illegal. The absurdity of this position becomes apparent when one considers its strange results. For example, if a local advisory board remains silent a defense-rental area will remain under rent control, but according to this singular theory, the area will be decontrolled if the local advisory board submits a recommendation for the continuance of controls without supporting evidence. The act, as stated earlier, makes no provision for such recommendations, but continues the preexisting controls by authority of the statute, placing a limited authority in local advisory boards to recommend changes in rent-control conditions either by the way of decontrol or rent increases, with appropriate guaranties that such actions are justified under the standards of the act.

4. I charge that in order to secure support for his confirmation Mr. Woods discharged Mr. Henry Zetzer, of Cleveland, the very able and effective regional administrator for the third region, and discharged Mr. Robert Yost, of New York City, the able deputy rent administrator in the second region.

5. Mr. Woods changed his rent regulations in March to provide that rent increases were to be thereafter retroactive to the date on which a landlord files petition for a rent increase. He gave as the reason for this drastic departure from the historical position of the rent-control program that it was unfair to landlords to deprive them of rent increases during the time their petitions for such were under consideration. This change in the regulations has already resulted in widespread confusion concerning the rights and liabilities of landlords and tenants affected by these rent increases. Mr. Woods

must have known that this would be the result of this change in the regulation. In most situations the retroactive rent increase cannot be of benefit to the landlord because under local State law the landlord will not be able to collect an increase in rent for a past period during which the tenant has already paid the rent. Of course in some situations tenants will not be advised of their rights under local law and will therefore be coerced into paying rent increases for considerable periods of time which they will not be legally liable for. In addition, I submit that an effective rent-control program requires certainty, insofar as possible, regarding the maximum rents. With the possibility of retroactive rent increases maximum rents will be uncertain.

Administration of the law requires honest, fearless men with a high degree of integrity. I hope, therefore, that the committee, in the case pending before it, will give complete and full analysis of the charges made above, and I am sure will conclude after close study that Mr. Woods does not have those qualities of judgment which are so necessary in the Administrator of this particular agency and will, therefore, reject his nomination.

Respectfully yours,

LEO GOODMAN,
Director, CIO National Housing Committee.

ELEVEN YEARS AGO NORTH DAKOTA BEGAN THE FIGHT AGAINST THE MOTION-PICTURE MONOPOLY

Mr. LANGER. Mr. President, in 1937, 11 years ago, in North Dakota the legislature passed an act divorcing the producers of films from the owners of moving-picture theaters. They did that because our legislature was satisfied at that time that a monopoly had been created. The great trust would go into a city and say to the owner of a theater, "Unless you sell out to us, we are going to erect another theater in this town and you will not be able to get first pictures, but we will show all the fine pictures in our own theater, and later you can get them as seconds."

This great trust went to the town of Grand Forks, N. Dak., where there was a young man by the name of Bennie Berger, who owned three theaters. They said, "Unless you sell out to us we, who produce or distribute these movies, are going to put our own theater into the city of Grand Forks and you will get only seconds." So Mr. Berger sold out, and the legislature of North Dakota became the first legislature in the history of the United States to pass a divorcement bill.

Immediately the law was attacked in the courts. Three Federal judges came to Fargo, N. Dak., to hold a hearing, which lasted a considerable length of time. The trust sued for an injunction against the attorney general of our State, Mr. Alvin C. Strutz, to keep him from enforcing the new law. Within a short time the three judges handed down a unanimous decision upholding the law. The trust promptly appealed.

About that time the theater trust met in Milwaukee, Wis. On that occasion the governor-elect of Wisconsin, a young man, who unfortunately died a week or 10 days afterward, Mr. Lommis, appeared with me at that time, and one of the heads of this gigantic trust had the audacity to rise in Milwaukee and say that the theater trust was so strong that if necessary it could spend a billion dollars in any fight in this land in order to maintain its power.

Upon that occasion, Mr. President, I had the great pleasure of telling these gentlemen of the Movie Trust that, although we did not have a billion dollars to spend in the State of North Dakota, we would spend all that was necessary in order to enforce the statute passed by our legislature. At the time the hearing had been held at Fargo, N. Dak., the Department of Justice had two Assistant Attorneys General sitting in the courtroom. They ordered a transcript of the testimony, and the Government was vitally interested in that particular hearing.

Mr. President, when the case against North Dakota came into the Supreme Court of the United States, out of a clear sky, after the case had been set for hearing, the two houses of the Legislature of North Dakota repealed the act inside of half an hour. I regretted that I no longer occupied the governor's chair so that I could veto the repeal.

I am not going into what took place in North Dakota, Mr. President, because that is a matter of record in that great book written by Kenneth Crawford.

But what North Dakota did 10 years ago bore fruit, and the Attorney General of the United States brought an action. Yesterday, May 3, we got that great decision for the people from the Supreme Court of the United States. The Supreme Court sustained the findings of a three-judge district court, in United States against Paramount Pictures, Inc., et al., that the eight major film distributors have engaged in a Nation-wide conspiracy to violate the antitrust law. Upon the Government's appeal from the failure of the courts below to order divestiture of the theaters owned by five of the major distributors, the Supreme Court vacated the findings of the court below to the effect that these defendants had no exhibition monopolies, and ordered the court to reexamine its conclusions in this respect. The Supreme Court flatly rejected the district court's conclusion that a system of competitive bidding would give adequate relief against the violations found, and ordered this provision of the judgment vacated. It directed the district court to grant theater divestiture of the kind sought by the Government, but the extent of the divestiture is left to the lower court for determination in accordance with a further inquiry into the monopolistic aspects of the defendants' theater holdings.

The decision of the Supreme Court also affirmed the district court's injunctions against block booking, price fixing, and unreasonable clearance. The holding that all clearance agreements made by the major distributors are presumptively invalid is affirmed, and this particular practice may no longer be used in the future as it has in the past to protect theaters affiliated with the distributors and large theater circuits from the competition of independents.

The trial court's determination that the pooling of theaters is illegal, regardless of the form in which the pooling occurs, whether by agreement, ownership of stock in theater corporations, or otherwise, was also affirmed. The trial court was directed to dissolve these pools by a sale of theater interests acquired from independents, except where such an acquisition was an investment unrelated to the defendants' illegal practices. This ruling alone should go far toward breaking up the largest affiliated theater circuits, which were put together and maintained in large part by pooling arrangements with independents.

In short, while Monday's decision could not itself be the ultimate victory for which the Government has striven, since the Supreme Court did not itself undertake to write or specify the details of the final decree, it represents assurance that the final decree, when written, will conform to the basic principles advocated by the Government in this litigation.

Mr. President, I ask unanimous consent that the opinion of the Supreme Court, delivered by Associate Justice Douglas in the case of Schine Chain Theaters, Inc., and others, against the United States of America, be made a part of the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States—No. 10—October term, 1947]

SCHINE CHAIN THEATRES, INC., ET AL., APPELLANTS, V. THE UNITED STATES OF AMERICA

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NEW YORK

(May 3, 1948)

Mr. Justice Douglas delivered the opinion of the Court.

This is a companion case to No. 64, United States against Griffith (ante, p. —), and is here by way of appeal from the District Court. The appellants, who were defendants below, are a parent company, three of its officers and directors, and five of its wholly owned subsidiaries—to whom we refer collectively as Schine. As of May 19, 1942, Schine owned or had a financial interest in a chain of approximately 148 motion-picture theaters [1] located in 76 towns in 6 States,[2] the greater portion being 78 theaters in 41 towns in New York and 36 theaters in 17 towns in Ohio. Of the 76 towns, 60 were closed towns, i. e., places where Schine had the only theater or all the theaters in town.[3] This chain was acquired beginning in 1920 and is the largest independent theater circuit in the country. Since 1931 Schine acquired 118 theaters. Since 1928 the closed towns increased by 56. In 1941 there were only three towns in which Schine's competitors were playing major film products.

The United States sued to prevent and restrain appellants from violating sections

[1] These figures do not include 18 which were closed and had been or were being converted to other uses.

[2] New York (78), Ohio (36), Kentucky (18), Maryland (12), Delaware (2), Virginia (2).

[3] Schine had the only theater in each of 21 towns, both theaters in 21 towns that had two each, all theaters in 16 towns that had 3 each, and all theaters in 1 town that had 6 theaters and in another that had 4 theaters.

Of these theaters approximately 87 percent are located in cities or villages with populations under 25,000 and 60 percent in cities or villages with populations under 10,000.

1 and 2 of the Sherman Act (26 Stat. 209, 50 Stat. 693, 15 U. S. C., secs. 1, 2). The complaint charged that the Schine interests by pooling their entire circuit buying power in the negotiation of films from the distributors so as to combine its closed and open towns got advantages for itself and imposed restrictions on its competitors which otherwise would not have been possible. It charged that the distributors granted certain favors to Schine which were withheld from Schine's competitors, for example, giving Schine the first run, refusing at times second runs to Schine's competitors, charging Schine with lower rentals than it charged others, licensing to Schine films in excess of Schine's reasonable requirements.

The complaint also charged that Schine had forced or attempted to force competitors out of business and where competitors would not sell out to Schine had threatened to build or had built an opposition theater, had threatened to deprive or had deprived competitors of a desirable film or run, had cut admission prices, and had engaged in other unfair practices. In these and other ways it was charged that Schine had used its circuit buying power to maintain its monopoly and to restrain trade. The conspiracy charged was between the Schine defendants themselves and between them and the distributors.

The district court found that the appellants had conspired with each other and with the eight major film distributors [4] to violate section 1 and section 2 of the Sherman Act. Its findings may be summarized as follows:

The entire circuit buying power was utilized to negotiate films for all the theaters from the distributors, the negotiations ending in master agreements between a distributor and the exhibitor. This large buying power [5] gave Schine the "opportunity to exert pressure on the distributors to obtain preferences." Moreover, Schine by combining its closed and open towns in its negotiations for films was able "to dictate terms to the distributors." Schine bought films for some theaters in which it had no financial interest (but as respects more of which it had an option to purchase). It also performed the service (under so-called pooling agreements) for groups of theaters in which it and others were interested. Through the use of such buying power Schine arbitrarily deprived competitors of first- and second-run pictures, was able in many towns to secure unreasonable clearances [6] year after year of from 90 to 180 days, obtained long-term agreements for rental of film (franchises) which gave it preferences not given independent operators,[7] and received more advantageous concessions from the distributors respecting admission prices than competitors were able to get. Schine made threats to build or to open closed theaters in order to force sales of theaters in various towns or to prevent entry by an independent operator. Schine cut admission prices. Schine obtained from competitors whom it bought out agreements not to compete for long terms of years, which agreements at times extended to other towns as well. Schine obtained film-rental concessions not made available to independents. The district court entered a decree enjoining these practices and requiring a divestiture by Schine of various of its theaters (63 F. Supp. 229).

First. For the reasons stated in *United States* v. *Griffith*, the combining of the open and closed towns for the negotiation of films for the circuit was a restraint of trade and the use of monopoly power in violation of sections 1 and 2 of the act. The concerted action of the parent company, its subsidiaries, and the named officers and directors in that endeavor was a conspiracy which was not immunized by reason of the fact that the members were closely affiliated rather than independent. (See *United States* v. *Yellow Cab Co.* (332 U. S. 218, 227); *United States* v. *Crescent Amusement Co.* (323 U. S. 173).) The negotiations which Schine had with the distributors resulted in the execution of master agreements between the distributors and exhibitors. This brought the distributors into unlawful combinations with the Schine defendants. (See *United States* v. *Paramount Pictures, Inc.*) The course of business makes plain that the commerce affected was interstate (*United States* v. *Crescent Amusement Co.* (supra, pp. 180, 183–184).)

Second. Appellants object to admission in evidence of numerous interoffice communications between officials of the distributors with whom Schine dealt. The district court placed considerable reliance on them in making its findings. We will advert later to the use of these documents to prove the unreasonableness of clearances. It is sufficient at this point to ray that since a conspiracy between Schine and each of the named distributors was established by independent evidence, these interoffice letters and memoranda were admissible against all conspirators as declarations of some of the associates so far as they were in furtherance of the unlawful project. (*Hitchman Coal & Coke Co.* v. *Mitchell* (245 U. S. 229, 249); *United States* v. *Crescent Amusement Co.* (supra, p. 184); *United States* v. *Gypsum Co.* (333 U. S. —).)

Third. Appellants make detailed challenges to many of the other findings of the district court on which it based its holdings that appellants violated the act.

1. They vigorously attack the findings that Schine abitrarily deprived independents of first- and second-run pictures. Their chief contention is that there is no support for the finding of arbitrary action on the part of Schine, that Schine did not buy pictures beyond its needs in order to keep them away from its competitors, that any successful purchaser of a first- or second-run picture has an exclusive privilege that necessarily deprives competitors of the film for the period of the run, and that any advantage which Schine obtained in this regard was the result of the operation of forces of competition.

As we read the evidence underlying this finding, it was the use of Schine's monopoly power—represented by combining the buying power of the open and closed towns—which enabled it to obtain that which its competitors could not obtain. Deprivation of competitors of first- and second-run pictures in that way was indeed arbitrary in the sense that it was the product of monopoly power, not of competitive forces. That is the construction we give the finding of the district court; and as so construed it is supported by substantial evidence. There may be exceptions in the case of some subsidiary findings. But we do not stop to relate them. For even if we lay them aside as clearly erroneous for lack of support in the evidence, the conclusion is irresistible that Schine so used its monopoly power to gain advantages and preferences which, on a purely competitive basis, it could not have achieved.

2. Defense of the long-term film-rental agreements—the franchises—is made on the ground that they were accepted methods of doing business in the industry,[8] that they were favored by distributors as devices to stabilize their end of the business and to save expense, and that they were not chosen by Schine as instruments to suppress competition. But it seems to us apparent that their use served to intensify the impact of Schine's monopoly power on its competitors. For when Schine's buying power was used to acquire films produced by a distributor for 2 or 3 years rather than for 1 year alone, it plainly strengthened through the exercise of monopoly power such dominant position as Schine had over each of its competitors.

Appellants also challenge the finding that Schine obtained preferences through the franchises, in addition to long-term supplies of pictures, which were not granted independent operators. One of these preferences was found to be the unfair and inequitable clearance provisions; another, special film-rental concessions. We will consider these later. The other aspects of the findings we do not stop to analyze. For the franchise agreements as employed by Schine are unreasonable restraints of trade for the reasons stated; and they must be permanently enjoined, even though we assume their collateral aspects are not accurately described by the district court and so may not be condemned.

3. Appellants challenge the finding that Schine made threats to build theaters or to open closed ones in order to force sales of theaters in various towns or to prevent entry by an independent operator. There are inaccuracies in some of the subsidiary findings. There are episodes which are susceptible of two interpretations, one wholly innocent and the other unlawful. There are still other episodes which have the unmistakable earmarks of the use of monopoly power with intent to expand an empire and to restrain competition. On the whole we think the district court was justified in drawing the inference of unlawful purpose from the ambiguous episodes and that those coupled with the others are adequate to support these findings of the district court.

4. We reach the same result as respects the agreements not to compete which Schine exacted from competitors whom it bought out. It is not enough that the agreements may be valid under local law. Even an otherwise lawful device may be used as a weapon in restraint of trade or in an effort to monopolize a part of trade or commerce. Agreements not to compete have at times been used for that unlawful purpose. (See *United States* v. *American Tobacco Co.* (221 U. S. 106, 174); *United States* v. *Crescent Amusement Co.* (supra, p. 181).) If we had here only agreements not to compete, the inferences drawn by the district court might not be warranted. But in the setting of this record, and against the background of Schine's other monopolistic practices, it seems to us that the district court might infer that the requisite purpose was present and that these agreements were additional weapons in Schine's arsenal of power through the use of which its monopoly was sought to be extended.

5. The finding that Schine obtained film-rental concessions not made available to independent operators is not intelligible to us. For the district court went on to state that "These provisions were also in contracts with

[4] Fox, Loew, Paramount, RKO, Warner, Columbia, Universal, and United Artists.

[5] In the 1939–40 season Schine paid $1,647,000 to six distributors in film rental.

[6] By clearance is meant the period of time agreed upon which must elapse between runs of the same feature within a particular area or in specified theaters.

[7] The district court used "independents" or "independent operators" to mean competitors other than the exhibitor-distributors. Schine, of course, is an independent circuit, as that term is used in the industry.

[8] A consent order was entered in the present case on May 19, 1942, which provided, *inter alia*, that appellants would not enter into any agreement licensing films released by any distributor during a period of more than 1 year and that all agreements in existence having a longer term should be void as to all films released after the 30th day following the date of the consent order.

independents." How those concessions constitute a restraint of trade is therefore not apparent. We set aside this finding so that it may be clarified on remand of the cause.

6. There is challenge to the findings that Schine's rental agreements contained minimum admission prices, or minimum admission prices lower than those to be charged by the independent operators for subsequent runs, or relieved Schine of requirements for minimum admission prices though imposing them on its competitors. There is evidence to support the findings that minimum prices were fixed. It is well settled that the fixing of minimum prices like other types of price fixing, is unlawful per se. (*United States* v. *Socony-Vacuum Oil Co.* (310 U. S. 150).) The findings that Schine was either granted minimum admission prices more favorable than those required of its competitors, or that Schine, unlike its competitors, was relieved of all requirements for minimum prices, are also supported by evidence. It is said that these provisions of the agreements were not adhered to. But since they did exist, it is not for us to speculate as to what force or sanction they may have had.

7. There is also challenge to the finding that Schine cut admission prices. This seems uncontroverted. But price cutting without more is not a violation of the Sherman Act. It is indeed a competitive practice which this record shows to have been common in the industry. It may be used in violation of the act. Thus it may be the instrument of monopoly power to eliminate competitors or to bring them to their knees. But since it is not unlawful per se, facts and circumstances must be adduced to show that it was in purpose or effect employed as an instrument of monopoly power. Here there is nothing except a bare finding that at times Schine cut admission prices. That finding is not sufficiently discriminating to withstand analysis and is not adequate to support an injunction against price cutting.

8. The finding as to unreasonable clearances presents rather large issues. We have elaborated the point in *United States* v. *Paramount Pictures, Inc.*, and need not repeat what is said there. Clearance is an agreement by a distributor not to exhibit a film nor to license others to do so within a given area and for a stated period after the last date of the showing of the film by the licensee with whom the agreement is made.[9] It is, in other words, an agreement by a distributor to license films only for specified successive dates. It is in part designed to protect the value of the license which is granted. While it thus protects the income of the first exhibitor, there is no contention that clearance agreements are per se unlawful restraints on competition by reason of the effect they may have on admission prices or otherwise. All the district court purported to condemn, and all the appellee maintains is unlawful, are "unreasonable clearances." If reasonableness is the test, the factors which bear on it would appear to be numerous.[10] The findings and opinion of the district court, however, do not greatly illuminate the problem. What standards or criteria of unreasonableness were applied does not clearly appear. There are, however, in some of the subsidiary findings in this case a few clues as to the basis used by the district court in classifying clearances as unreasonable. Thus it said that Schine got some clearances "over towns in which Schine did not operate." But that is irrelevant to the problem of reasonableness of clearances, since by definition clearances run to both theaters and towns not owned by him who has the clearance.

The district court also found that clearances "were given over towns over which there had been no previous clearance." But that without more would not make a clearance unreasonable. The district court found that Schine got clearances over "some towns distant from 10 to upward of 20 miles" and that clearances were also obtained over "outside towns of comparably small population, distant so far that no clearance is justified." If the basis for these findings is that the towns were in different competitive areas, it would come closest to revealing the standard used by the district court in determining whether the clearances were or were not reasonable, unless possibly it be the finding that in a few instances Schine got clearances over towns where there were no theaters.

The district court cites instances of clearances which in its view were illegal because unreasonable as to time. But some of these turn out to be situations where clearances were granted over towns where Schine had the only theater in town. So perhaps the district court used as a basis for some of its findings of unreasonable clearances the absence of any competition between the theaters in question. But as to that we can only guess in each case and then wonder whether our guess was correct, because appellee suggests that one vice of Schine's clearances was that they ran not to specified theaters but to specified towns. We are, however, left somewhat in the dark whether the district court followed that theory or made the reasonableness of clearances turn on whether or not the theaters affected were in different competitive areas.

Appellee also suggests that proof of the unreasonableness of Schine's clearances is that their periods were almost uniformly the same even though there were wide variations in the condition, size, and type of pictures played in the various theaters. But we are given no clue in the findings whether that was the view of the district court. On its face it seems more like an attempt of the appellee to show what findings could have been made on the basis of the record had some discrimination been made in appraising the evidence.

Appellee seems to argue that standards of reasonableness can be dispensed with by reason of statements in the interoffice memoranda of the distributors that many of Schine's clearances were unreasonable. On the matter of clearances, however, the interests of distributors and exhibitors are not necessarily identical. For the self-interest of exhibitors which would call for long clearances would militate against the best interests of distributors.[11] So it is not clear that these declarations can properly be said to fall within the scope of the unlawful project which the two groups were sponsoring. (Cf. *Pinkerton* v. *United States* (328 U. S. 640, 647–648.) But, however that may be, these statements do not advance us very far with the problem because they too fail to give specific content to the concept of unreasonable as applied to clearances.

As a last resort appellee seeks to sustain these findings on the ground that Schine got at least some of its clearances by refusing to make any deal for the circuit unless its terms were met. But any clearance so obtained, though otherwise reasonable, would be unlawful, for it would be the product of the exercise of monopoly power. It is evident, however, that that was not the theory adopted by the district court, for it did not look to see what clearances had been obtained in that manner.

The short of the matter is that since we do not know for certain what the findings of the district court on clearances mean, they must be set aside. In doing so we, of course, do not intimate here, any more than we do in case of the other findings we have set aside in the case, that the record would not sustain findings adverse to Schine. We only hold that before we can pass on the questions tendered, findings on clearances must be made which reflect an appraisal of the complex of factors bearing on this question of reasonableness. That is a function of the district court.

Fourth. The decree entered by the district court enjoins appellants from specified acts or practices.[12] To the extent that these provisions are directed to practices reflected in findings which we set aside, they must be

[9] See note 6, supra.

[10] See Bertrand, Evans & Blanchard, The Motion Picture Industry—A Pattern of Control 40–41 (TNEC Monograph No. 43, 1941):

"The establishment of clearance schedules is an intricate procedure. It involves a complex bargaining process and the balance of a variety of opposing economic interests. It may be stated initially that the primary objective of the distributor is, of course, to maximize his total revenue from each picture. This aim gives him a very direct interest in clearance periods. The higher rental fees paid by the prior-run exhibitor are directly conditioned on the extent of the protection which he is granted, and in general the longer the clearance period before subsequent showing, the higher the rental fee the prior-run exhibitor will pay.

"On the other hand, the distributor's revenue from subsequent-run exhibition is also important to him; this income may mean the difference between black or red ink on his ledgers. But the longer the clearance period, the smaller will be these returns— not only because more customers will have attended the prior showing rather than wait for subsequent exhibition, but also because the effects of the advertising and exploitation efforts made when the picture was released will have been vitiated over this time. In general, the greater the total box-office return earned by a film in all showings, the greater will be the distributor's revenue.

* * * * *

"The relation between run, clearance, and zoning, admission price, seating capacity, and rental fees is indeed a complex one. The range covered by these factors is indicated by this fact: a license fee amounting to many thousands of dollars may be paid for the first showing of a film in a large metropolitan theater, and within a year the same film may be exhibited in some small theater in the same city for a fee of less than $20."

[11] See note 10, supra.

[12] This part of the decree provides:

"Each of the defendants is hereby enjoined and restrained:

"1. From monopolizing the supply of major first-run films in any situation where there is a competing theater suitable for first-run exhibition thereof and from monopolizing the supply of second-run film in any situation where there is a suitable theater for second-run exhibition thereof.

"2. From demanding or receiving clearance over theaters operated by others which unreasonably restricts their ability to compete with a theater owned or operated by a defendant corporation controlled by it and from attempting to control the admission prices charged by others by agreement with distributors, demands made upon distributors, or by any means whatsoever.

"3. From conditioning the licensing of films in any competitive situation outside of Buffalo, N. Y., upon the licensing of films in any other situation and from entering into any film franchise.

* * * * *

"5. From enforcing any existing agreements heretofore entered into (1) not to compete or (2) to restrict the use of any real estate to nontheatrical purposes.

"6. From using any threats or deception as a means whereby a competitor is induced to sell.

"7. From continuing any contract, conspiracy, or combination with each other or with any other person which has the purpose or effect of maintaining the exhibition or theater monopolies of the defendants or of preventing any other theater or exhibitor from competing with the defendants or any of them, and from entering into any similar contract, conspiracy, or combination for the purpose or with the effect of restraining or monopolizing trade and commerce between the States."

reexamined by the district court on remand of the case.

Appellants object to the generality of the injunction against "monopolizing" first- and second-run films.[13] The statutory requirement is that these injunctions "shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained" (38 Stat. 738, 28 U. S. C. sec. 383; and see Fed. R. Civ. P., 65 (d)). We need not determine whether the provision in question if read, as it must be, in light of the other paragraphs of the decree (*Swift & Co.* v. *United States* (274 U. S. 311, 328)) would pass muster. For we think the public interest requires that a more specific decree be entered on this phase of the case. The precise practices found to have violated the act should be specifically enjoined.

We have considered the objections to the other parts of the injunction (apart from provisions as to divestiture which we discuss later) and find them without merit.

Fifth. The district court included in its decree a divestiture provision adjudging that appellant companies be "dissolved, realined, or reorganized in their ownership and control so that fair competition between them and other theaters may be restored and thereafter maintained." The parties subsequently submitted various plans and after hearings the one submitted by the Department of Justice was approved with modifications. The plan does not provide for the dissolution of the Schine circuit through the separation of the several affiliated corporations as was done in *United States* v. *Crescent Amusement Co.* (supra, pp. 188–189). It keeps the circuit intact in that sense but requires Schine to sell certain theaters. The plan requires Schine to sell its interest in all but one theater of its selection in each of 33 towns, all but two in each of four larger towns, and two of four theaters in Rochester, New York.[14] Schine is to be divested of more than 50 of its theaters. The towns affected are over 40 out of the seventy-odd in which Schine is operating.[15] The one-theater towns of Schine are unaffected.

The decree also dissolves the pooling agreements. A trustee is appointed to make the sales which are ordered. Schine is prohibited from acquiring any financial interest in additional theaters "except after an affirmative showing that such acquisition will not unreasonably restrain competition." Schine is ordered not to buy or book films for any theater other than those in which it owns a financial interest. The district court concluded that this program of divestiture was necessary in order to restore "free enterprise and open competition amongst all branches of the motion-picture industry."

As we have noted, the district court did not follow the procedure of *United States* v. *Crescent Amusement Co.*, supra, and order the dissolution of the combination of the affiliated corporations. Schine presented such a plan and it was rejected. That plan contemplated the division of the Schine theaters among three separate corporations, with members of the Schine family owning each corporation. The district court rejected that plan because it did not furnish such separation of ownership as would assure discontinuance of the practices which had constituted violations of the act. The district court did not pursue further the prospect of dismemberment of the Schine circuit through separation of the theaters into geographical groupings under separate and unaffiliated ownerships. Nor do the findings reflect an inquiry to determine what theaters had been acquired by Schine through methods which violate the act. So far as the findings reveal, the theaters which are ordered divested may be properties which in whole or in part were lawfully acquired; and theaters which Schine is permitted to retain may, so far as the findings reveal, be ones which it obtained as the result of tactics violating the act.

In this type of case we start from the premise that an injunction against future violations is not adequate to protect the public interest. If all that was done was to forbid a repetition of the illegal conduct, those who had unlawfully built their empires could preserve them intact. They could retain the full dividends of their monopolistic practices and profit from the unlawful restraints of trade which they had inflicted on competitors. Such a course would make enforcement of the act a futile thing unless perchance the United States moved in at the incipient stages of the unlawful project. For these reasons divestiture or dissolution is an essential feature of these decrees. (See *United States* v. *Crescent Amusement Co.*, supra, p. 189, and cases cited.)

To require divestiture of theaters unlawfully acquired is not to add to the penalties that Congress has provided in the antitrust laws. Like restitution, it merely deprives a defendant of the gains from his wrongful conduct. It is an equitable remedy designed in the public interest to undo what could have been prevented had the defendants not outdistanced the government in their unlawful project. Nor is *United States* v. *National Lead Co.* (332 U. S. 319, 351–353), opposed to this view. For in that case there was no showing that the plants sought to be divested were either unlawfully acquired or used in a manner violative of the antitrust laws.

Divestiture or dissolution must take account of the present and future conditions in the particular industry as well as past violations. It serves several functions: (1) It puts an end to the combination or conspiracy when that is itself the violation. (2) It deprives the antitrust defendants of the benefits of their conspiracy. (3) It is designed to break up or render impotent the monopoly power which violates the act. (See *United States* v. *Crescent Amusement Co.* (supra, pp. 188–190); *United States* v. *Griffith.*)

The last two phases of this problem are the ones presented in this case. But the district court purported to deal with only one of them. It did not determine what dividends Schine had obtained from the conspiracy. In *United States* v. *Crescent Amusement Co.* (supra, pp. 181, 189), some of the affiliated corporations through which that empire was built were products of the conspiracy. Hence that fact without more justified the direction in the decree to unscramble them. There are no findings which would warrant such a course in this case. But an even more direct method of causing appellants to surrender the gains from their conspiracy is to require them to dispose of theaters obtained by practices which violate the antitrust acts. We do not know what findings on that score would be supported by the record, for the district court did not address itself to the problem. The upshot of the matter is that the findings do not reveal what the rewards of the conspiracy were; and consequently the court did not consider what would be the preferable way of causing appellants to surrender them. The case must therefore be remanded so that the district court may make appropriate findings on this phase of the case.

While such an inquiry is the starting point for determining to what extent divestiture should be ordered, the matter does not end there. For it may be that even after appellants are deprived of the fruits of their conspiracy, the Schine circuit might still constitute a monopoly power of the kind which the act condemns (see *American Tobacco Co.* v. *United States* (328 U. S. 781, 809, 811)), in spite of the restrictive provisions of the decree. Monopoly power is not condemned by the act only when it was unlawfully obtained. The mere existence of the power to monopolize, together with the purpose or intent to do so, constitutes an evil at which the act is aimed (*United States* v. *Griffith, ante; United States* v. *Aluminum Co. of America* (148 F. 2d 416, 432)). But whether that condition will obtain in this case must await the findings on the other phase of the case.

We accordingly set aside the divestiture provisions of the decree so that the district court can make the findings necessary for an appropriate decree. We approve the dissolution of the pooling agreements, the prohibition against buying or booking films for theaters in which Schine has no financial interest, and the restriction on future acquisitions of theaters. See *United States* v. *Crescent Amusement Co., supra,* pp. 185–187. We do not reach the question of the appointment of a trustee to sell theaters as that merely implements the divestiture provisions which must be reconsidered by the district court.

The judgment of the district court is affirmed in part and reversed in part and the cause is remanded to it for proceedings in conformity with this opinion.

So ordered.

Mr. Justice Frankfurter concurs in the result.

Mr. Justice Murphy and Mr. Justice Jackson took no part in the consideration or decision of the case.

[13] See note 12, supra, paragraph 1.

[14] It also requires Schine to sell specific theaters remaining unsold under the consent decree of May 19, 1942.

[15] Schine had withdrawn from five towns pursuant to the consent order of May 19, 1942.

Mr. LANGER. Mr. President, sometimes in this great country of ours there is an individual who is not very well known, an individual who sometimes, because of the magnificent fight he puts up for the interests of the common people, finally is raised from obscurity.

Everyone of us is familiar with that fine old Scandinavian in the State of Minnesota, that farmer who, when he went to purchase a little piece of machinery to repair his binder which cost $2 found that he had to pay $4 for the express charges on it. He went to New York City and there instituted a lawsuit, which resulted in express rates being cut all over this country.

We are all familiar with how, on the trip to New York, when that farmer from Minnesota got into an upper berth, he found that he was charged the same for the upper berth as he would have been charged for the lower berth, and how he then brought that famous lawsuit which resulted in a 40-percent cut in the cost of upper berths as compared with lower berths, which is in effect all over this country today. That man was so poor that during the time he was bringing these lawsuits through his attorney, James Manahan, of St. Paul, Minn., he slept in the YMCA of New York City at 15 cents a night.

In North Dakota there is a man named Benny Berger, a man who, when he was forced to sell his three theaters at Grand Forks, organized the independents all through the Northwest. He organized the Alliance of Independent Theater Owners, which was back of this lawsuit just concluded. He helped get the testimony, helped to institute lawsuits against

the big Movie Trust for triple damages; he put in days and weeks and months and years of his life, during the last 10 years, to get what was obtained in the Supreme Court yesterday—a decision which, in my opinion—will wipe out forever the combination between the manufacturers of films or the distributors of films and the owners of theaters which have been forcing out the little fellow from the theater business.

Mr. President, some time ago the Attorney General of the United States, Tom Clark, proceeded to take a personal interest in this law suit. Mr. Clark went to New York City and worked on the case, and when it was finally argued in the Supreme Court of the United States, on the one side were to be found what in my opinion was the greatest array of counsel that money could procure, men who had long been in the Government employ and had recently left it. Certainly they were then before the Supreme Court of the United States arrayed against the Government. It was a perfect example, Mr. President, of what a corporation or a group of corporations worth billions of dollars can do. They hire the men who have the finest reputation, men with reputedly the best brains. On the other side of the case was the Attorney General of the United States, Tom Clark, personally, in there fighting for the interest of the common people of the United States. In view of the magnificent victory that Tom Clark gained there in the interest of the common people of the United States I cannot permit this opportunity to pass without rising on the floor of the Senate and paying tribute to this man. He is paid but a small sum of money as Attorney General of the United States, a small salary which we have time and again attempted to raise, as we have attempted to raise the salaries of the heads of other departments. Nevertheless, Mr. Clark not only ably protected the interest of the common people of the country but the decision has routed the enemies of the common people.

Mr. President, I only hope that the time will soon come when the new method of law enforcement instituted by Tom Clark will be accepted all over the country. Until the time he became Attorney General of the United States the Sherman antitrust law had never been enforced by means of criminal prosecution. Not a single individual had ever been sent to jail for violating the Sherman Antitrust Act. If a GI stole a loaf of bread, if a small merchant violated the OPA regulations by selling a loaf of bread for a penny more than the price fixed by OPA, he would be put into jail. But those representing the great, rich, powerful corporations, who would manipulate and connive so that they could have control of the milk and the bread of the country, and raise the price of milk and bread so that they would be almost prohibitive to the little children and the mothers who needed them, such men never were arrested until Tom Clark became Attorney General of the United States.

Mr. President, although Tom Clark is a Democrat and I am a Republican, I desire to pay public tribute to him because he is a man who has the stamina to move forward and do something which no Attorney General, whether Democrat or Republican, has done since the law was enacted in 1890, approximately 57 years ago. Nothing was done until this young man from Texas became the Attorney General of the United States. Every American citizen can well be proud of this fine public official.

It gives me a great deal of pleasure to rise upon the floor of the Senate and say to the American people that at long last, after 57 years, we now have a man as Attorney General of the United States who is enforcing the Sherman Antitrust Act, by criminal procedure, although that was not involved in this particular case, and who has served notice to all the country that if men get together to violate the Sherman Antitrust Act they will be pulled up short by the Department of Justice of the United States of America.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. LANGER. I am happy to yield to the Senator from Wyoming.

Mr. O'MAHONEY. I am glad to compliment the Senator from North Dakota on the statement he has just made with respect to the attitude of the Attorney General, Mr. Tom Clark, with respect to the enforcement of the antitrust laws. I listened with a great deal of interest and approval to what the Senator had to say about the decision of the Supreme Court with respect to the motion-picture case. It involves one of the aspects of the general problem of economic concentration which has been going on for years without number.

The Senator has presided as chairman of a subcommittee of the Senate Committee on the Judiciary at several very illuminating hearings on the bill which has been introduced to amend the Clayton Act so as to plug the gap which was created by several decisions of the Supreme Court some 20 years ago, by which the teeth were taken out of the old Clayton Act. I know the Senator's sympathy for that proposal. The bill, which was introduced in the House by the distinguished Representative KEFAUVER, of Tennessee, was, as the Senator knows, approved by the House Committee on the Judiciary, and was then sent to the Committee on Rules where, like some other bills, it has been buried very silently for about a year.

The companion measure, which I had the privilege of introducing upon this side, is in the Committee on the Judiciary. I feel, and I know the Senator from North Dakota feels, that great progress can be achieved toward the attainment of the objectives which the Senator holds in his heart, and to which he has given such eloquent expression this afternoon, of breaking down monopoly, if we can get that bill out on the floor. I know, from what the Senator has said at the hearings, that he sympathizes with the objectives of that measure. May I ask the Senator what prospects he thinks there may be now for favorable action by the Senate Committee on the Judiciary on this measure?

Mr. LANGER. I may tell my distinguished colleague from Wyoming that personally I have been ready to report the bill for months. I am for the bill introduced by the distinguished Senator from Wyoming; I am for every word of it, for every comma, for the dotting of every "i" and the crossing of every "t" just as it is. The trouble has been that one member of the subcommittee has been ill a great deal of the time, and is ill now, the distinguished Senator from Nevada [Mr. MCCARRAN]. The other member of the subcommittee, the distinguished junior Senator from Michigan [Mr. FERGUSON] resigned from the subcommittee several weeks ago. No Senator has yet been appointed to take his place. The hearings have been completed.

Mr. O'MAHONEY. The chairman of the full Committee on the Judiciary is on the floor. Perhaps he would be willing to serve on that committee in the vacancy, and help to bring forth the bill.

Mr. LANGER. I simply wish to say that I have not the least doubt that in a very short time the distinguished and very able chairman of the Committee on the Judiciary will appoint another Senator to take the place of the Senator from Michigan on the subcommittee. I think it has not been settled from what subcommittee the Senator from Michigan will retire and of what subcommittee he will remain a member. I am sure we will have in the future, as we have always had in the past, the cooperation of the distinguished chairman of the Committee on the Judiciary.

Mr. O'MAHONEY. Mr. President, I am grateful to the Senator from North Dakota for that statement, and I express the hope, in the presence of the distinguished Senator from Wisconsin [Mr. WILEY] that we may have prompt action upon that bill. I say this in all sincerity because I believe that unless we take positive steps to control monopoly in the United States it will be difficult to maintain a free economy. Concentration has been going on in every industry. The practices which the Senator from North Dakota has described in the motion-picture industry, under which independent theater owners were being bludgeoned into the sale of their properties, are not at all confined to that industry. The independent operator is finding great difficulty in every single industry. The statistics before us show that the degree of concentration which has taken place in every industry in the United States is such that the independent operators scarcely have the opportunity to exist.

Mr. President, I shall take more time a little later to discuss this issue, with facts and figures.

THE BATTLE OF BUNKER HILL, 1948 VERSION—TRIBUTE TO THE PEOPLE OF BUNKER HILL, ILL.

Mr. BROOKS. Mr. President, I desire to pay tribute today to the 1,380 citizens of the heroic community of Bunker Hill, Ill.

At 6:45 a. m. on March 19, 1948, Bunker Hill was struck by a devastating tornado. In approximately 60 seconds, 20 persons were killed, 126 others were injured, and 80 percent of the area was leveled to the ground.

In 1 minute a century of work, progress, and enterprise was virtually nullified.

Four-fifths of all the buildings were destroyed or damaged seriously, resulting in an estimated property loss of $4,700,000.

Approximately 125 homes were destroyed and another 125 were damaged severely. Most of the public buildings were leveled or otherwise damaged, including the new city hall, the fire engine house, the public library and all its books, and the school gymnasium. Four of the community's five churches were destroyed—the Catholic, the Congregational, the Lutheran, and the Methodist—while the fifth, the Baptist church, was damaged badly.

Hardly any of the Bunker Hill's 65 business and professional men escaped personal loss, as most of the business district was destroyed.

In spite of this staggering blow, Bunker Hill is rising from its rubble, determined to live again as a happy, thriving community, and to regain its rightful place among the cities and towns of our Nation.

These heroic efforts to restore and revitalize the area are combined in a community-wide project which the citizens there have so bravely and appropriately described as "the Battle of Bunker Hill—1948 version."

A citizens' committee is directing this program, which has inspired assistance from various groups and organizations in neighboring towns and cities and which has received commendation from several newspapers in Illinois and Missouri.

Among the leaders are Kenneth Miller, mayor of Bunker Hill; Rev. M. E. Burke, president of the Bunker Hill Commercial Club; and Arthur E. Strang, president of the Allied Clubs' Council and also publisher of the Bunker Hill Gazette-News.

Incidentally, Mr. Strang is one of the community's outstanding veterans, having served more than 5 years with the Air Transport Service in the Pacific theater.

Mr. Strang participated in the invasions of Bataan and Corregidor. He was taken prisoner by the Japanese at Corregidor and remained a prisoner for 41 months. Despite the fact that his own building establishment was badly destroyed, Mr. Strang has continued to publish the Bunker Hill Gazette-News without missing a single issue, largely through the cooperation and good will of publishers in adjacent communities.

In tribute to the citizens of Bunker Hill, I praise them for their fortitude, their determination, and their vision. This is reflected by the comments of Editor Strang in the April 29, 1948, issue of the Bunker Hill Gazette, in these words:

If you are one of those who doesn't believe that history repeats itself, lend an eye to this—the hectic Battle for Bunker Hill, 1948 version, waged by approximately 1,200 of the 1,400 pretornado population of Bunker Hill, who have stayed by their guns to battle for their homes, their businesses, their town, and their continued happiness in the community they love and know as home, reminds your editor of another Battle for Bunker Hill that was fought some 173 years ago with the same typical brand of American courage, and against the same terrific odds—we're referring of course to the Battle of Bunker Hill in Boston, against the British in the Revolutionary War days. To refresh your memories we'll recall for you that on the night of June 16, 1775, Col. William Prescott and 1,200 poorly equipped American militia captured the heights, commanding Boston, called Bunker Hill, to prevent their fortification by the British. Before morning, Colonel Prescott and his men had thrown up an earthworks fortification on the hill and challenged the British advance. The heavily armed British warships in Boston Harbor opened fire on the brave defenders, but could not drive the Americans from their positions. General Howe with an overwhelmingly force of red coats was ordered to storm the height. Twice he marched his men up to within 50 yards of the Americans, and twice the militia, who withheld their deadly fire until they could see the whites of the enemy's eyes, drove them back, inflicting terrific losses. The British charged a third time, but the Americans were out of ammunition, and so retired without disorder. They had won a moral victory, and gave the infant American Nation new hope and great encouragement.

The plucky residents of Bunker Hill, Ill., too, have withstood two terrific charges by devastating tornadoes, almost as deadly and destructive as their forefathers met on that historic morning in 1775, and they are still in there fighting, and rebuilding their ramparts, but they, too, have run short of ammunition—ammunition to replace their civic losses that mean so much to the continued life of their town. They however, are undaunted and have implicit faith in their powers to recoup these losses to their city, although they are faced with the possibility that it may take many, many years to do the job.

Already some of the rural newspapers in the State are championing this cause, endeavoring to get them some monetary assistance, and three metropolitan newspapers have called the plight of Bunker Hill to the attention of their readers. Most noteworthy of these was the effort made by the St. Louis Star-Times, which carried a splendid feature story in their last Friday's edition. They followed this up with a short news story on Saturday stating that Bunker Hill needed aid in their uphill fight, and in their Monday's edition they again stressed the fact in their lead editorial. The Chicago Sun-Times also carried an appealing story in their Monday's issue, which was well done. The St. Louis Globe-Democrat gave some publicity to the fact to their readers Sunday, and although in our opinion their story did not reach home, because they did not use much of the publicity presented them, still they did try, and should be commended for the effort.

Although only a few donations have reached the Allied Clubs Council to date, we are more than pleased with the response by the metropolitan newspapers to our letters to them which contained most of the same publicity as used in last week's issue of the Gazette-News, when we touched off the "Battle for Bunker Hill" fund raising campaign.

We think it is well worth mentioning here, the sentiments expressed in a poem that accompanied a 25-cent donation by an anonymous St. Louis donor, since it expresses the sincere feelings of the sender. Here it is, to wit:

A quarter alone is weak,
But thousands together can't be beat
And surely they'll seek
A way to keep,
Bunker Hill out of the deep.

If you too, dear former resident or Bunker Hill friend, wish to aid in this gallant fight by the "town that refused to die" your donation, no matter how small, will be accepted and appreciated by the people of Bunker Hill. Thank you kindly.

OSCAR LITTLETON CHAPMAN

Mr. O'MAHONEY. Mr. President, 15 years ago today President Roosevelt appointed as an Assistant Secretary of the Interior a distinguished citizen of Colorado, who is now serving as Under Secretary of the Department of the Interior. He has been in continuous service since May 4, 1933, and has the distinction of having served longer as an assistant secretary of a Federal department than any other person in the history of the Government.

I am referring to Hon. Oscar Littleton Chapman, of Denver. I feel that the occasion should not pass without at least a brief reference to the distinguished service which he has rendered in the Department of the Interior. He has been alert to the needs of the country and to the interests of the people; and he is an administrator of exceptional capacity.

I was very happy to observe that the President of the United States and Mr. Julius A. Krug, Secretary of the Interior, have themselves taken note of this record-breaking term of service. I ask unanimous consent that as a part of my remarks there be printed in the RECORD at this point a letter addressed to Mr. Chapman by President Truman, and a letter addressed to him by Secretary Krug.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, April 28, 1948.

The Honorable OSCAR L. CHAPMAN,
Under Secretary of the Interior,
Washington, D. C.

DEAR OSCAR: I have just learned that on May 4 you will have served for 15 years as a member of the "little Cabinet"—the longest period of such service in our history. I can testify from my personal experience that this service has been marked by the utmost competence and by a rare devotion to the interests of our country.

Please accept my cordial congratulations and my hearty good wishes.

Very sincerely yours,

HARRY S. TRUMAN.

DEPARTMENT OF THE INTERIOR,
Washington, April 30, 1948.

Mr. OSCAR L. CHAPMAN,
Under Secretary,
Department of the Interior.

DEAR OSCAR: Nowhere in the Federal Government have we more closely approached the ideal of a "permanent Under Secretary" than in your association with the Interior Department. Your 15 years in a command post here have been an outstanding contribution to American Government in policy, procedure, and in understanding of the problems of the ordinary American citizen for whom the Government should always be run. You have both my personal and my official thanks and best wishes.

Sincerely yours,

CAP,
Secretary of the Interior.

Mr. O'MAHONEY. Mr. President, it is only fitting that a man of the high character, integrity, and ability of Under Secretary Chapman, who has served with such distinction for 15 years, should have tribute paid to him by Members of this body who have known by personal association of the splendid work he has performed.

Mr. HATCH. Mr. President, in connection with the remarks made by the Sentor from Wyoming [Mr. O'MAHONEY] with reference to Under Secretary of the Interior Chapman, I wish to join in the tribute which has been paid to Mr. Chapman by the Senator from Wyoming. In this connection, I should like to give something of Mr. Chapman's history.

Oscar Littleton Chapman, Under Secretary of the Department of the Interior, was born at Omega, Va., October 22, 1896. He attended public schools in Virginia and Randolph-Macon Academy, joined the United States Navy in 1918, and established residence in Denver, Colo., in 1920. While in Denver, he attended the University of Denver and Westminster Law School.

Mr. Chapman became an assistant to Judge Ben Lindsey, Juvenile Court of Denver, 1921–27. In 1929 he entered law practice with the late Senator Edward P. Costigan, and was appointed Assistant Secretary of the Department of the Interior on May 4, 1933, by President Roosevelt. On March 27, 1946, he was promoted to Under Secretary of the Department, serving longer continuous service in the Little Cabinet than any man in history.

Having long been active in civic and political affairs, he has been charter member of the American Legion, former member of the Legion's Committee on Child Welfare, and a member of Phi Alpha Delta.

During the period of time while Mr. Chapman has been in the Department of the Interior, necessarily, coming from a State in which there are large acreages of public lands, and many and vast interests with which the Department of the Interior deals, including irrigation, reclamation, Indian affairs, and other subjects, we have had many contacts with Mr. Chapman and his work. Throughout that period of time Mr. Chapman has not only shown ability and industry, but he has evidenced a vast knowledge of and interest in matters peculiar to our Western States. As a Senator from a Western State, where these subjects are of such great importance, I am glad to add my word of praise of Mr. Chapman and his long and distinguished record in the Department of the Interior.

Mr. JOHNSON of Colorado. Mr. President, I wish to join with my colleague from New Mexico and with the Senator from Wyoming in paying tribute to the wonderful services of Oscar Chapman in the Department of the Interior.

As has already been said, he has been a good servant of the people. He has not forgotten the West and its very great problems. He is in position to render valuable service to the West, and he has not failed or faltered in performing his duties in the Department of the Interior in dealing with the peculiar problems with which the West has to contend today. Not very many members of the Cabinet or very many representatives of official Washington come from the West; but Oscar Chapman has made up for the lack of the quantity of such persons by the quality of his services.

REPEAL OF OLEOMARGARINE TAXES

The Senate resumed the consideration of the appeal of Mr. FULBRIGHT from the decision of the President pro tempore referring to the Committee on Agriculture and Forestry the bill (H. R. 2245) to repeal the tax on oleomargarine.

The PRESIDENT pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. WILEY, Mr. MAYBANK, and Mr. FULBRIGHT addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. WILEY. Mr. President, I desire to speak briefly to the question now before the Senate. I wish to compliment the President pro tempore for what I think is a very laudable and clear presentation of the situation facing the Senate, and also on reaching what I believe is the correct conclusion and decision.

I desire to state briefly the reasons why I believe the decision of the Chair should be sustained.

LEGISLATIVE REORGANIZATION ACT OF 1946

Legislation relating to oleomargarine has its most important impact on the agricultural economy of the country. It affects agriculture more importantly than it does any other segment of the economy. The Reorganization Act of 1946 explicitly confers jurisdiction on the Committee on Agriculture and Forestry to consider all proposed legislation relating to agriculture generally, all proposed legislation relating to the dairy industry, all legislation relating to nutrition and home economics, and all legislation relating to agricultural production and marketing and stabilization of prices of agricultural products.

Mr. President, I do not know how anyone could draw up a bill or a proposed law, so clearly relating to a product such as oleomargarine, which is made out of fats such as coconut oil or products of cottonseed or soybeans, that would have, as we shall develop during the debate before the Senate, a more significant effect—one side will say it is a detrimental effect, and the other side will say it is a beneficial effect—upon the agricultural interests of the United States.

The subject of the regulation of oleomargarine is inextricably bound up with all four of the subjects which under the Reorganization Act are committed to the Committee on Agriculture. That the legislation "relates" to the "dairy industry" is clear from the very definition of the subject of the excise—oleomargarine, section 2300, United States Code Annotated—which provides the clue to the purpose and intent of the regulation in the following words:

> If (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk water, or other liquid, and containing moisture in excess of 1 percent or common salt.

NOT IMPORTANT AS A REVENUE MEASURE

Mr. President, the Chair must take judicial notice that it is not contended by either those who favor or those who oppose the proposed legislation that the law sought to be repealed by the bill is designed as a revenue measure. Plainly, it is regulatory in character.

The executive branch of the Government, through the Under Secretary of Treasury, A. Lee M. Wiggins, recently testified on the pending measure before a committee of another body, stating:

> Revenue considerations are not involved. (Transcription, House Committee on Agriculture, hearings, p. 11.)

PRECEDENT FAVORS REFERRAL TO THE COMMITTEE ON AGRICULTURE

The measure now being discussed is a bill to repeal "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine approved August 2, 1886, as amended."

Mind you, Mr. President, the purpose of this measure is to repeal an act defining butter. This measure would repeal that act. Although I do not have the statistics at hand, yet all of us know that butter is a vital product of agriculture; and butter, combined with the other fats, constitutes the richest segment of the agriculture industry in the United States.

The most recent occasion on which Congress amended this law was during the third session of the Seventy-first Congress. At that time Senate bill 5745 was referred to the Committee on Agriculture and Forestry—CONGRESSIONAL RECORD, page 2312. Extensive hearings were held by the Committee on Agriculture and Forestry, and an amended bill was reported by that committee—CONGRESSIONAL RECORD, page 3915. The House vehicle on that occasion was House bill 16836. After passage by the House, it was placed on the Senate Calendar—CONGRESSIONAL RECORD, page 6068. House bill 16836 passed the Senate in lieu of the Senate bill—CONGRESSIONAL RECORD, page 6704, and consideration of Senate bill 5745 was indefinitely postponed.

PROCESSING TAX LEGISLATION CONSIDERED BY COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. President, a persuasive precedent for referring this measure to the Committee on Agriculture and Forestry is found in the history of the legislation which enacted processing taxes on agricultural commodities.

The original Agricultural Adjustment Act, including its processing tax provisions enacted during the first session of the Seventy-third Congress, was considered by the Senate through House bill 3835. The bill was referred to and considered by the Committee on Agriculture and Forestry—CONGRESSIONAL RECORD, page 786. It eventually became Public Law No. 10 of that Congress—CONGRESSIONAL RECORD, page 3499.

During the second session of the Seventy-third Congress, House bill 7478 was the vehicle used to amend the Agricultural Adjustment Act. After passage by the House, the bill was referred to the Committee on Agriculture and Forestry.

In the Seventy-fourth Congress, first session, House bill 8492, another amending bill, after passage by the House was referred to the Committee on Agriculture and Forestry—CONGRESSIONAL RECORD, page 9620. A bill to repeal the processing tax features of the Triple A, Senate bill

2506, was referred to the Committee on Agriculture and Forestry—CONGRESSIONAL RECORD, page 4983.

The situation of the proposed oleomargarine legislation is similar to the situation of the processing tax legislation in that in both cases the tax was intended to benefit a specific segment of agriculture. Even though the processing taxes raised a very substantial amount of revenue, nevertheless the subject was referred to and considered by the Committee on Agriculture and Forestry.

COMMITTEE ON AGRICULTURE AND FORESTRY HELD MOST RECENT HEARINGS

Mr. President, the most recent Senate hearings on proposed legislation to repeal oleomargarine regulation were conducted by the Committee on Agriculture and Forestry. These hearings, on Senate bill 1744, Seventy-eighth Congress, were extensive. The Chair should understand that some of the proponents of repeal rely on these hearings for their present purposes.

For the 20-year period up to the beginning of the Eightieth Congress, all bills proposing to repeal oleomargarine regulation have been referred to the Committee on Agriculture and Forestry, with the single exception of Senate bill 1426, by the Senator from South Carolina [Mr. MAYBANK], introduced in 1943.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. WILEY. I yield.

Mr. FULBRIGHT. I did not quite understand the last statement the Senator made. Did he say that the only bill which was referred to the Finance Committee was the Maybank bill?

Mr. WILEY. I said that for the 20-year period up to the beginning of the Eightieth Congress, all bills proposing to repeal oleomargarine regulation have been referred to the Committee on Agriculture and Forestry, with the single exception of Senate bill 1426, introduced by the Senator from South Carolina [Mr. MAYBANK] in 1943—the so-called Maybank bill.

Mr. FULBRIGHT. Is the Senator certain of that?

Mr. WILEY. I had a search made, and I also have something that I shall place in the RECORD that seems to sustain it. I have not traced down all the bills; but I have had a search made.

During the present Congress two bills (S. 985 and S. 1907) have been referred to the Committee on Finance without objection. That was discussed very fully this morning by the President pro tempore, who indicated it was done as a routine matter, the bills having been thus referred because they seemed to affect finance. The Chair, on investigation, found that one of the bills related almost wholly to agriculture, and he of course came to the conclusion, which was the right one, that under the Legislative Reorganization Act, the bill should have gone to the Committee on Agriculture and Forestry.

But, aside from the exceptions noted, the practice has been to refer legislation of this type to the Committee on Agriculture and Forestry.

The Chair, and I am sure all Senators, should be well aware, from the long history of this issue, that the original law and its subsequent amendment has been for the dual purpose of impeding the sale of yellow-colored oleomargarine as and for butter, and, in so doing, to afford protection to the dairy interest against such fraudulent sale. That was the very purpose of it. When the tax was imposed, butter itself was selling for about 10 cents, and the tax was fixed at 10 cents. The tax is now, of course, only a fraction of the price of butter. However, I shall not go into the merits of the bill until the proper time arrives, except to say that the very purpose of the statute in its beginning was to benefit consumers in America, and the finest piece of misrepresentation imaginable really of a mesmeric sort, has been practiced in connection with this very subject. I know of none equalling it. I am sure that when we get down to a discussion of the merits, we shall find that the real purpose of saying to oleo "you cannot be yellow," was to prevent the butter market being taken over to the detriment of American consumers.

The Chair has indicated, and all of us are undoubtedly aware, that those in other branches of agriculture, particularly the producers of cotton and soybeans, believe benefit will accrue to such segments of agriculture by repeal of the present law. Remember, I am speaking to the question that is before the Senate. Considerations involving the proper balance between these branches of agriculture and the dairy industry, which is a branch of agriculture, and the total effect on agriculture, as it may impinge on our whole economy, should seem, as the Chair indicated, to be particularly appropriate for deliberation by the Committee on Agriculture and Forestry.

Mr. President, I have had prepared a statement showing oleomargarine legislation, commencing with a bill introduced in 1928, showing committee references in both the House and Senate. I ask that this exhibit be printed following my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OLEOMARGARINE BILLS

NAME, NUMBER, YEAR INTRODUCED, AND COMMITTEE REFERENCE

Mr. Haugen, H. R. 10958; 1928; House Agriculture.
Mr. Culkin, H. R. 3868; 1929, House Agriculture.
Mr. Haugen, H. R. 6; 1930; House Agriculture.
Mr. Townsend, S. 5745; 1931; Senate Agriculture and Forestry.
Mr. Brigham, H. R. 16836; 1931; House Agriculture.
Mr. Kleberg, H. R. 1119; 1932; House Agriculture.
Mr. Hebert, S. 4065; 1933, Senate Agriculture and Forestry.
Mr. Kleberg, H. R. 8050; 1934, House Agriculture.
Mr. Boileau, H. R. 9865; 1936; House Agriculture.
Mr. Culkin, H. R. 19; 1937; House Agriculture.
Mr. Kleberg, H. R. 66; 1937; House Agriculture.
Mr. Smith, H. R. 93; 1937; House Agriculture.
Mr. Boileau, H. R. 1487; 1937; House Agriculture.
Mr. Pierce, H. R. 2255; 1937; House Agriculture.
Mr. Withrow, H. R. 4088; 1937; House Agriculture.
Mr. Celler, H. R. 5752; 1937; House Agriculture.
Mr. Crawford, House Joint Resolution 625; 1938; House Committee on Expenditures.
Mr. Culkin, House Resolution 29; 1939; House Committee on Rules.
Mr. Kleberg, H. R. 62; 1939; House Agriculture.
Mr. Celler, H. R. 220; 1939; House Agriculture.
Mr. Culkin, H. R. 245; 1939; House Agriculture.
Mr. Kleberg, H. R. 64; 1939; House Agriculture.
Mr. Smith, H. R. 10515; 1940; House Agriculture.
Mr. Walsh, S. 1959; 1941; Senate Committee on Naval Affairs.
Mr. Hobbs, H. R. 5894; 1941; House Agriculture.
Mr. Gillette, S. 1921; 1941; Senate Agriculture and Forestry.
Mr. Fulmer, H. R. 3754; 1941; House Agriculture.
Mr. Cooley, H. R. 3753; 1941; House Agriculture.
Mr. Culkin, H. R. 122; 1941; House Agriculture.
Mr. Andresen, H. R. 5700; 1941; House Agriculture.
Mr. Maybank, S. 1426; 1943; Senate Committee on Finance.
Mr. Fulmer, H. R. 2400; 1943; House Agriculture.
Mr. Randolph, House Joint Resolution 37; 1943; Committee on District of Columbia.
Mr. Fulmer, H. R. 4; 1943; House Agriculture.
Mr. Smith, S. 1744; 1944; Senate Agriculture and Forestry.
Mr. Maybank, amendment to H. R. 3687; 1944; ordered to lie on table and be printed.
Mr. Maybank, S. 195; 1945; Senate Agriculture and Forestry.
Mr. Rivers, H. R. 579; 1945; House Agriculture.
Mr. Johnston, S. 985; 1947; Senate Finance.
Mr. Fulbright, S. 1907; 1947; Senate Finance.

APPROPRIATIONS—OLEO

NATURE, NUMBER, YEAR, AND COMMITTEE REFERENCE

Executive Office; H. R. 7922; 1941; House Appropriations.
Deficiency; H. R. 1975; 1943; House Appropriations.
Executive Office; H. R. 1762; 1944; House Appropriations.
Department of Labor, etc.; H. R. 2935; 1944; House Appropriations.
Military Establishments; H. R. 2996, 1944; House Appropriations.

Mr. WHERRY. Mr. President, if I may have the attention of the Senator from Arkansas, the debate has now continued to nearly 5 o'clock, and I am wondering if it meets with the approval of the Senator that a unanimous-consent request be proposed that the Senate vote on the pending question, which is the Senator's appeal from the decision of the Chair, tomorrow at 1 o'clock, let us say.

Mr. FULBRIGHT. I wish to make a very few additional remarks, in rebuttal of some of the statements which have just been made. I think 1 o'clock is a little early. I understand the Senator from South Carolina wishes to speak,

although I do not know how long. He is the only Senator I know of who does desire to speak.

Mr. WHERRY. I did not desire to foreclose any Senator. I was merely suggesting to the distinguished Senator an hour which might be suitable for all.

Mr. JOHNSTON of South Carolina. Would not the Senator agree on the hour of 2 o'clock tomorrow?

Mr. WHERRY. I shall be glad to make any proposal that will be satisfactory. I ask unanimous consent that a vote be had upon the pending question at the hour of 2 o'clock tomorrow.

The PRESIDENT pro tempore. Is there objection?

Mr. MAYBANK. Mr. President, reserving the right to object, I presume the distinguished Senator from Nebraska will provide that the time be divided between 12 o'clock and 2 o'clock between himself and, I would suggest, the Senator from Arkansas [Mr. FULBRIGHT].

Mr. WHERRY. I did not include that in the unanimous-consent request because I understood it was not known how many would desire to speak. I thought probably that could be arranged later. But if it is necessary to include that, I shall be glad to do so. I shall be glad to make the hour 2 o'clock.

Mr. MAYBANK. And divide the time?

Mr. WHERRY. Very well. I suggest, as a part of the unanimous-consent request, that between the hour when the Senate convenes at 12 o'clock noon and 2 o'clock, the time be divided equally between the proponents and the opponents of the question, that the proponents' time be in the control of the Senator from Arkansas [Mr. FULBRIGHT], and the time of the opponents I suggest be in the control of the ranking member of the Committee on Agriculture and Forestry, the Senator from Vermont [Mr. AIKEN], or anyone the chairman might designate.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nebraska? The Chair hears none, and the order is made.

NATIONAL SCIENCE FOUNDATION

The Senate resumed the consideration of the bill (S. 2385) to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes.

Mr. MAGNUSON. Mr. President, I do not wish to divert the discussion from the question of the appeal which is now before the Senate, but I should like to address the Senate briefly on the business which was temporarily laid aside, namely, the National Science Foundation bill.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. WHERRY. We should like to resume the debate on that bill as soon as the pending appeal is disposed of. Would it be possible to persuade the Senator to delay his remarks on the National Science Foundation bill until the question of the appeal can be determined by a vote?

Mr. MAGNUSON. I was given assurance that would be done earlier. The discussion has continued throughout the day.

Mr. WHERRY. That is correct. Sentors had a perfect right to continue it.

Mr. MAGNUSON. I have a few remarks to make in connection with the National Science Foundation bill.

Mr. WHERRY. I am wondering whether the Senator would allow us to get a vote first on the pending question.

Mr. MAGNUSON. I assure the Senator my speech will not be a long one.

Mr. LUCAS. Does the Senator desire a quorum call before he speaks?

Mr. MAGNUSON. No; but I thank the Senator.

The PRESIDENT pro tempore. The Senator from Washington is recognized, to speak on whatever subject he desires.

Mr. MAGNUSON. Mr. President, the bill (S. 2835) which is the unfinished business of the Senate, was introduced by the distinguished Senator from New Jersey [Mr. SMITH] on behalf of himself and several other Senators. It is one of the most important pieces of legislation to come before the Senate at the present session. I feel sure the bill will be enacted into law at this session. It is the result not merely of a study conducted over many months, but a study that has been conducted for some years by various Members of the Senate and House. Its far-reaching implications could well make it one of the most important bills ever come before this or any preceding Congress. Legislation on this subject is long overdue.

I think the RECORD should show that a National Science Foundation was first proposed in Congress by the senior Senator from West Virginia [Mr. KILGORE] some years ago. At that time his proposal was the result of many months of research in this particular field. I, at the same time, joined with the Senator from West Virginia.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator.

Mr. MAYBANK. Was not the distinguished Senator from West Virginia chairman of the subcommittee which investigated the subject at that time?

Mr. MAGNUSON. That is correct. At that time, the Senator from West Virginia was chairman of a subcommittee of the so-called Truman committee, which had charge of this and kindred matters. He spent much time and effort on the subject, and was assisted by a competent research staff. Later on, I joined him in introducing the first so-called National Science bill. Other Senators joined us, of whom I believe the Senator from Michigan was one. Several other Senators expressed interest.

Mr. MAYBANK. Mr. President, I should like the RECORD to show that the bill was referred to the Committee on Military Affairs. That was before the passage of the Legislative Reorganization Act of 1946. Extensive hearings were held by the committee. As the Senator will remember, I was privileged to serve as a member of that subcommittee.

Mr. MAGNUSON. The Senator is correct. Many hearings were held by the committee. The matter was also referred to another great committee of the Senate, where hearings were held for many weeks. As a matter of fact at the hearings 2 years ago, I think probably the most distinguished array of witnesses ever to appear before any committee testified in support of the national science foundation bill. There not only were great American scientists, but scientists from other countries as well, particularly those of the Western Hemisphere. Some of the Nation's top industrialists, such as presidents of large corporations, appeared, as well as the presidents of universities, and other famous educators, from all over the country. As a matter of fact, the record of those hearings could almost be considered a reference Bible on the subject of the foundation and the need in this country of both science legislation and scientific research.

The committee later on reported the bill, which received action on the floor of the Senate. Several amendments were proposed. There were two main sources of controversy in the original bill, although all witnesses testified as to the need of legislation on the subject. One controversy had to do with the organization of the Science Foundation itself, namely, who was to appoint the director; how large the board should be; whether the President should have the authority to remove the director and appoint the board, and many other subjects which related to the establishment of such a large organization as the National Science Foundation. There was a great difference of opinion among Senators regarding the matter. The bill finally passed the Senate and was passed by the House, but was vetoed by the President of the United States, mainly upon the premise that the administration which would be responsible for the expenditure of the money for scientific research should have some say in the appointment of the director who was, in turn, to have a great deal to say regarding the expenditure of money.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. I was diverted for a moment. The Senator said there were two principal points of controversy and that one was the organization of the Science Foundation itself. What was the other point?

Mr. MAGNUSON. I had not stated the second point. It was raised very ably by the distinguished Senator from Oregon. He and I believed that in any expenditure of funds for educational purposes it should be mandatory that the money be distributed to all the 48 States, rather than to leave it to the discretion of the so-called policy-making members of the Board. My distinguished colleague from Arkansas has himself been an educator. It was felt that we might well put such a provision into the bill so that the so-called Ivy League would not get all the money. Those were the two main points of controversy.

Mr. FULBRIGHT. Mr. President, will the Senator yield further?

Mr. MAGNUSON. I yield.

Mr. FULBRIGHT. I remember those two points very well. I was in accord with the Senator's view regarding the distribution of the funds. I should like to mention a further controversy when I tried on two occasions to amend the bill with regard to specifically including in it social sciences. Subsequent to that time I discussed the subject with the Senator from New Jersey [Mr. SMITH], and he has assured me that under the language of the bill—and I have read the bill, too—there is no question that there is authority for research in the social sciences, although, as I recall, it does not specifically name the social sciences as a division. For the purposes of interpretation in the future, I should appreciate it if the Senator from Washington would state his position as to the authority for research in the social sciences.

Mr. MAGNUSON. I appreciate the Senator's calling it to my attention. That was a third phase of controversy. There were discussions in the committee pro and con regarding the subject. The original bill provided that the Foundation should establish certain divisions, specifically a division of social sciences. But, after much discussion and hearing of many witnesses, including prominent educators in the field of social science, we felt it would probably bring about on the floor of the Senate and the House a great deal of discussion and misunderstanding as to what the Foundation intended to do. It was decided that by specifically and directly mentioning social science it might be a directive to the Foundation, once it became operative, to enter fields somewhat beyond the original intent and purpose of the bill; in other words, to use appropriations for objectives which might not necessarily come strictly within the domain of scientific research. Social science covers a broad field. After a great deal of discussion, the pending bill provides for a division of medical research, a division of mathematical, physical, and engineering sciences, a division of biological science, and a division of scientific personnel in education. Under the fourth division and under other provisions of the bill which give wide authority to the Foundation, research in social science can be directed by the Foundation as a matter of policy. It was thought that it was not legislatively wise to use the term "social science."

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. FULBRIGHT. I offered the amendment providing for that. After the amendment was rejected, some Senators asked me what I had in mind by including social science. They inquired whether I meant socialism. I explained that I did not mean socialism. What was contemplated was the study of such questions as economics and politics, two fields in which I think this country is much more deficient than it is in mathematics, physics, or engineering science.

Mr. MAGNUSON. And such things as population trends and living conditions.

Mr. FULBRIGHT. My purpose was not to promote socialism. That was apparently the way my amendment was understood by some Senators. If I now understand correctly the attitude of the committee, they feel there should also be within the Foundation such other divisions as the Foundation may from time to time deem necessary. I understand it authorizes research in the fields of politics and economics. Is that the Senator's understanding?

Mr. MAGNUSON. That is my understanding, and I am sure it is the understanding of all the Senators whose names appear on the bill as sponsors.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. MAYBANK. I should like to make a brief statement, in view of my deep interest in the bill. I have been absent from the Senate for the past 2 hours, having been suddenly called to attend a meeting of the Armed Services Committee. I had the pleasure of asking the distinguished Senator from Arkansas two questions on the oleo bill. I shall read the remainder of the Senator's speech which I was unable to hear. I intend to speak at some length on the matter later this afternoon, when the Senator from Washington has finished his discussion of the National Science Foundation bill.

Does not the Senator from Arkansas construe the statements which have been made to mean that studies of housing and health may be made, in order to obtain records and figures?

Mr. FULBRIGHT. So far as health is concerned, if I correctly remember, there is a specific authorization for research in health and in biological science. A broad term is what we may call human relationships, which relate to economic matters which could be investigated under the bill.

Mr. MAGNUSON. I appreciate the fact that the Senator from Arkansas has called attention to that phase of the bill.

After months of hearings, Mr. President, and of discussions participated in not only by Members of Congress but by distinguished educators, scientists, business industrialists, and other persons interested in the subject, the bill was vetoed. The President was very specific in his reasons. He was not objecting to the original intent of the bill or the need for the bill.

Mr. President, I wish to refer again to the fact I pointed out originally, the amount of work which has been done on the proposed legislation. I can not too highly compliment the Senator from New Jersey [Mr. SMITH]. The Senator from Massachusetts [Mr. SALTONSTALL] whom I see in the Chamber, has also been deeply interested in the bill, as have several others of us.

I think the bill represents as much work as has any bill I have known of in Congress, and that as much testimony has been taken regarding it as regarding any other measure.

When the bill becomes law, because of its far-reaching effect not only on the economy, but the welfare of the Nation, I think it would be well that the RECORD should carry the names of those on the outside who have done such yeoman work in attempting to create interest in the necessity for such legislation not only in the Congress, but throughout the United States.

The leader in this movement is probably one of the most distinguished scientists in the entire Nation, so recognized by his own scientific groups and by scientists everywhere. I refer to Dr. Vannevar Bush, who so successfully and so ably headed the Office of Scientific Research and Development during the war years. He was responsible for all the scientific development, and the mustering of all the scientific personnel who made America so strong scientifically during the trying days of the war. Dr. Bush has worked tirelessly on this matter. Dr. Isaiah Bowman, the distinguished president of Johns Hopkins University, came to Washington on several occasions to help us settle our differences on certain details of the bill. Again I say it is the result of a great deal of work both by Members of this body and those on the outside.

The need for the legislation, the need for its quick passage by the Senate and by the House of Representatives, has been pointed out time and time again. Whereas 2 years ago the need was obvious, it is even greater now. Those engaged in scientific research publicly and privately in the United States, at the atomic energy plants, and the great scientific developments at the General Electric and all the others of the great corporations which have scientific research within their operations, find that it is most difficult to obtain even the basic number of scientists they need in order to keep scientific research alive so that America may keep abreast or ahead of the rest of the world. In my own State, at Hanford, those in charge at the atomic-energy plant have been desperately trying to get even the minimum number of scientific personnel needed in that great project.

Mr. SMITH. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. SMITH. I am very happy that the Senator from Washington has paid a glowing tribute to Dr. Bush and others who have taken part in this enterprise. I am glad to state for the RECORD that the Senator from Washington himself from the beginning has been identified with the activity leading up to the enactment of the legislation. I was happy last year to have him as one of the cosponsors of the bill, and again this year. There is no one who has done more to bring about understanding between the factions working on the bill than has the distinguished Senator from Washington. I think that when history records the passage of the legislation—as I hope it will tomorrow—the Senator from Washington will appear as one of those who made most outstanding contribution to the accomplishment of this important purpose. I congratulate him now for the

part he has played, for the splendid patience he has shown, and for the full cooperation he has given us on this side of the aisle in making the legislation possible.

Mr. MAGNUSON. I thank the Senator from New Jersey, and I share his hope that the Senate will speedily pass this very important bill. I know he will speak to Senators on the other side of the aisle about the importance of having it passed before the adjournment of Congress.

At the moment Congress is in the throes of great discussion as to what is necessary for the defense of America. This bill could mean more to the national defense than all the appropriations we might make for the next 10 years for the Army, Navy, and Air Force. No one can define today what is the defense of America. The bill provides for an integral part of it, as much a part of it as a tank, a battleship, or an airplane.

The United States was the only country during the war which drafted all its men, regardless of whether they were working in scientific laboratories, or war machines, war implements, or war research. All other countries exempted such workers. There has been a hiatus of seven long years in which we have trained hardly one basic scientist in the United States. This bill, we hope, will help to fill the gap. It will, we hope, make America not only defensively strong, but will aid in making it a better place in which to live. It is high time that the Government took an interest in this matter. In view of the world situation, with which the distinguished occupant of the chair is so throughly familiar, it is high time that we proceed scientifically as the bill provides. I hope the bill will be passed at an early moment.

ORDER OF BUSINESS—RECESS

Mr. WHERRY. Mr. President, I wish to inquire of the Chair if, after the vote is taken tomorrow in the Senate on the appeal by the Senator from Arkansas [Mr. FULBRIGHT] from the ruling of the Chair, the bill providing for the establishment of a National Science Foundation automatically becomes the pending business before the Senate?

The PRESIDENT pro tempore. The Chair will state that the National Science Foundation bill then automatically becomes the pending business before the Senate.

Mr. WHERRY. Mr. President, I think the RECORD should show that after the vote is had tomorrow at 2 o'clock, the bill providing for the establishment of a National Science Foundation then will be the pending business before the Senate. It is our intention, if it meets with the approval of the Senate, in the event there is early action on that bill tomorrow afternoon, to proceed to the consideration of the bill providing for the extension of title VI of the National Housing Act, which is now pending.

I now move that the Senate recess until tomorrow, Wednesday, at noon.

The motion was agreed to; and (at 5 o'clock and 11 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, May 5, 1948, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate May 4, 1948:

DIPLOMATIC AND FOREIGN SERVICE

Robert Butler, of Minnesota, now Ambassador Extraordinary and Plenipotentiary to Australia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Cuba.

TENNESSEE VALLEY AUTHORITY

Harry Alfred Curtis, of Missouri, to be a member of the Board of Directors of the Tennessee Valley Authority for the term expiring 9 years after May 18, 1948.

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grade and corps specified, with dates of rank to be determined by the Secretary of the Army, under the provisions of section 506 of the Officer Personnel Act of 1947, and title II of the act of August 5, 1947 (Public Law 365, 80th Cong.):

To be lieutenant colonel

John S. Oartel, DC.

To be majors

Robert F. Corwin, MC, O225096.
Frederick M. Jacobs, MC, O397758.
Samuel J. Newson, MC, O284343.
Carl J. Welge, MC, O350292.

To be captains

Herbert M. Alston, MC, O1775866.
Michael J. Eyen, DC, O397667.
Peter M. Margetis, DC, O1755592.
Evan W. Molyneaux, MC, O1691020.
John C. Patterson, MC, O325884.
Alfred G. Siege, MC, O463703.
Justin S. Zack, DC, O479775.

To be first lieutenants

John C. Adam, MC, O1717010.
Glenn R. Carwell, DC.
Alvin Cohen, MC, O1774845.
Lyle H. Edelblute, MC, O1765588.
Oliver C. Hood, MC, O1746597.
James H. Johnson, MC, O1715935.
Frederick F. Krauskopf, MC, O927574.
Sidney L. Marvin, MC, O1746446.
Revere A. Nielsen, DC, O945356.
Horace H. Osborne, MC, O1736488.
Richard M. Paddison, MC, O479955.
Alexander C. Peat, MC, O1747263.
Irvin C. Plough, MC, O475459.
Raymond E. Ponath, MC, O472818.
Stanley D. Rapinchuk, MC, O1705253.
Irwin E. Rosen, MC, O1756989.
Wilson R. Scott, MC, O461988.
Henry E. Segal, MC, O1726901.
Donald J. Strand, MC, O1767181.
Julius W. Taylor, MC, O1746874.
Robert S. Tolmach, MC, O1715114.
Lewis F. Townsend, Jr., DC, O1736469.
Harvey H. Waldo, MC, O1764979.
Donald M. Wright, MC, O1785931.

POSTMASTERS

The following-named persons to be postmasters:

ARKANSAS

Otis W. Neely, North Little Rock, Ark., in place of R. M. S. Butner, removed.

CALIFORNIA

C. B. Childers, Arvin, Calif., in place of O. G. Nance, resigned.

Kenneth W. Dyal, San Bernardino, Calif., in place of H. P. Thoreson, resigned.

CONNECTICUT

Newman C. Clark, Old Lyme, Conn., in place of C. C. Peck, deceased.

GEORGIA

John D. Watts, Brinson, Ga., in place of D. K. Talbert, deceased.

ILLINOIS

Eula McCawley, Chesterfield, Ill., in place of Verda Malone, resigned.

Arthur E. Maloney, Mooseheart, Ill., in place of M. D. Davis, resigned.

Charles H. McGough, Secor, Ill., in place of Henrietta Hinds, resigned.

INDIANA

Marion E. Maxwell, Darlington, Ind., in place of D. C. Thompson, transferred.

Dow Haimbaugh, Rochester, Ind., in place of H. G. McMahan, retired.

IOWA

Joseph L. Torpey, DeWitt, Iowa, in place of H. L. Smith, transferred.

Stanley H. Nelson, Terril, Iowa, in place of C. C. Lockner, resigned.

KENTUCKY

Walter G. Towles, Stamping Ground, Ky., in place of E. T. Breen, transferred.

MASSACHUSETTS

Elizabeth R. Colby, Byfield, Mass., in place of C. E. Bowden, resigned.

Leo G. Tetreault, Colrain, Mass., in place of R. B. K. Johnson, resigned.

Donald P. Steele, Gloucester, Mass., in place of G. W. O'Neil, deceased.

George M. Olin, Seekonk, Mass., in place of L. A. Monahan, removed.

Richard S. Patterson, South Egremont, Mass., in place of C. T. Williams, deceased.

MICHIGAN

John B. Seidl, Jones, Mich., in place of R. L. Schell, retired.

MINNESOTA

Fred J. Peterson, Laporte, Minn., in place of A. E. Child, removed.

Helene A. Ingstad, Marcell, Minn. Office became Presidential July 1, 1946.

Lyle R. Martinson, Shafer, Minn., in place of R. E. Grandstrand, transferred.

MISSOURI

Lola E. Frohse, High Ridge, Mo. Office became Presidential July 1, 1946.

Carl E. Schreiner, Lamar, Mo., in place of W. G. Warner, resigned.

Doris N. Cornine, Nelson, Mo., in place of A. R. White, deceased.

Mildred F. Parsons, Syracuse, Mo., in place of M. T. Keevil, removed.

MONTANA

James Charles McCue, Winnett, Mont., in place of E. V. Leslie, resigned.

NEBRASKA

Winton E. Newcomb, Cambridge, Nebr., in place of K. R. Newcomb, transferred.

NEW YORK

Naoma Brown, Fair Haven, N. Y., in place of W. S. Brown, deceased.

Frank A. McEvoy, Mount McGregor, N. Y. Office became Presidential October 1, 1946.

T. Leo Ford, Oak Hill, N. Y., in place of E. E. Ford, retired.

Walter R. Cumiskey, Port Washington, N. Y., in place of T. E. Roeber, resigned.

Althera Wahl, Sylvan Beach, N. Y., in place of M. M. Rice, deceased.

NORTH CAROLINA

Grady R. Hemphill, Julian, N. C., in place of E. L. Whitaker, retired.

NORTH DAKOTA

Donovan J. Dolan, Bowbells, N. Dak., in place of I. E. Schultz, resigned.

Herbert J. Clark, Powers Lake, N. Dak., in place of E. J. Powell, resigned.

OHIO

Charles L. Sparks, Sabina, Ohio, in place of E. H. Barns, resigned.

Mabel I. Linson, South Solon, Ohio, in place of Emma Duff, retired.

OREGON

Dorothy L. Halverson, Lacomb, Oreg., in place of W. J. Bird, retired.

SOUTH CAROLINA

William S. Simpson, Jr., Iva, S. C., in place of S. E. Leverette, retired.

Emily K. Bishop, Port Royal, S. C., in place of F. W. Scheper, retired.

TENNESSEE

John B. Overstreet, Celina, Tenn., in place of A. J. Dale, deceased.

TEXAS

Napoleon B. Ballard, Baytown, Tex., in place of E. M. Thomas, resigned.

Robert A. Runyon, Brownsville, Tex., in place of J. A. O'Brien, deceased.

Alfred M. Weir, McAllen, Tex., in place of H. S. Merts, resigned.

UTAH

Edward W. Vendell, Ogden, Utah, in place of R. B. Porter, retired.

VIRGINIA

David W. Paulette, Farmville, Va., in place of J. A. Garland, resigned.

WEST VIRGINIA

Anne M. Bailey, Kingston, W. Va., in place of D. W. Proffit, removed.

WISCONSIN

Laura E. Maxfield, Browntown, Wis., in place of E. L. White, deceased.

HOUSE OF REPRESENTATIVES

TUESDAY, MAY 4, 1948

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou in whose presence our souls take delight, consider and hear our humble prayer. Thy ways are in the deep and mighty waters, yet Thy hand is over us in divine love.

Thou hast not promised us to withhold affliction, calm without storm, or sun without a cloud, but Thou hast vouchsafed unto us a divine sympathy and an unfaltering strength whose heights and depths give triumph on the battlefields of life. Blessed be Thy holy name. O let Thy wisdom be our guide, Thy service our ambition, and Thy peace our richest possession. In the name of Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS

Mr. WOODRUFF asked and was given permission to extend his remarks in the RECORD in two instances and include an article by a former Member of the House, Mr. Pettengill, and also an article by Maj. Alexander P. de Seversky.

Mr. STEVENSON asked and was given permission to extend his remarks in the RECORD and include a letter to a constituent.

Mr. ROSS asked and was given permission to extend his remarks in the RECORD and include a resolution.

Mr. ROBERTSON and Mr. SMITH of Kansas asked and were given permission to extend their remarks in the RECORD.

STEEL EXPORTS

Mrs. ST. GEORGE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. ST. GEORGE. Mr. Speaker, I have two pieces of paper here in my hand that I think tell quite an interesting story. The first is an advertisement appearing in the Commercial Journal of recent date, and it reads as follows:

We offer, as representatives of a leading European mill, API line pipe, 300-500 tons monthly, commencing October. Kurt Orban Co., Inc., 17 Battery Place, New York City.

The other thing I should like to read is section 112 of Public Law 472:

The Administrator shall provide for the procurement in the United States of commodities under this title in such a way as to (1) minimize the drain upon the resources of the United States and the impact of such procurement upon the domestic economy; and (2) avoid imperiling the fulfillment of the vital needs of the people of the United States.

I believe we ought to have a so-called watchdog committee. Such a committee should look for just this sort of thing. It is obvious that as we are shipping about 1,000,000 tons of steel to Europe in the second quarter of 1948, that steel will arriye in Europe by October, and these people are commencing to ship it back to us, to be paid for in American jobs and dollars. I hope this watchdog will be a lean and hungry hound, and not a sleek and comfortable house pet.

Mr. Speaker, the steel export quota for the second quarter of 1948 is 846,150 tons, plus tin sheet and terneplate in the amount of 125,000 tons, or a total of 971,150 tons. This is a tremendous amount and is already having a serious effect on the economy of our country.

Add to that that we are to ship in the second quarter a little less than 14,000,000 barrels of petroleum products, and it is very evident that by next winter many of our people will be suffering from cold and the high price of fuel, and these same people will, quite properly, come to their Representatives in Congress and call them to account.

Mr. Speaker, do not let us wait, as we generally do in all our foreign affairs, until the horse has left the barn before we close the door. Let us see that the law is enforced now and at all times.

Many of us were fearful that in voting for Public Law 472 we might be harming our own country, but we were assured by the authors and the protagonists of the measure that that would not be the case.

We believe that the words of section 112 of the law mean exactly what they say, and I, for one, shall constantly watch out for any violation or deviation from the policy proclaimed in this section.

HON. PAUL G. HOFFMAN

Mr. JOHNSON of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. JOHNSON of Illinois. Mr. Speaker, it has just been brought to my attention that the new Chairman of the ECA, the Honorable Paul G. Hoffman, in an address before the National Association of Securities Commissioners on November 16, 1945, made the following statement—I quote:

Frequently businessmen give me a bad case of the jitters by asserting that if the shackles are taken off from free enterprise all will be well; that nothing more is needed. This comes close to being nonsense.

I have also been informed that close to a year later he said about the same thing before an American Bankers Association convention in the following words. Again I quote:

Those that claim that all we have to do is unshackle free enterprise are guilty of loose, irresponsible talk.

Mr. Speaker, I hope that the Appropriations Committee will question Mr. Hoffman closely concerning his belief in free enterprise. No doubt Mr. Hoffman is a man of many accomplishments, but these statements would seem to raise the question as to whether on occasion he himself is guilty of loose talk. We should find out definitely whether he believes in a free or a managed economy. During the next few years he will have the power in his hands to shape the destiny of the future world economy. Those of us who believe so strongly in free enterprise would like to have the assurance that this man is also a firm believer in a free economy. Government controls impede production and should be removed at the earliest possible moment. They are at the root of Europe's economic troubles. I trust the members of the Appropriations Committee will be able to assure us that Mr. Hoffman will work for the removal of these shackling controls which are hampering world recovery.

CONSTRUCTION OF MILITARY INSTALLATIONS

Mr. ALLEN of Illinois, from the Committee on Rules, reported the following privileged resolution (H. Res. 574, Rept. No. 1849), which was referred to the House Calendar and ordered to be printed:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 6342) to authorize the Secretary of the Army and the Secretary of the Air Force to proceed with construction at military installations, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.